

A REPORT BY THE NEW YORK STATE OFFICE OF THE STATE COMPTROLLER

**Alan G. Hevesi
COMPTROLLER**



***DEPARTMENT OF ENVIRONMENTAL
CONSERVATION***

***DIVISION OF WATER
ACCOMPLISHMENTS OF SELECTED
PARTNERING ORGANIZATIONS***

2005-S-46

DIVISION OF STATE SERVICES

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**Alan G. Hevesi
COMPTROLLER**

Report 2005-S-46

Ms. Denise M. Sheehan
Commissioner
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-4750

Dear Ms. Sheehan:

The following is our report on the Department of Environmental Conservation's use of non-State staff to accomplish certain program requirements in the Division of Water. This is the second of two reports that address this topic. The first report addresses whether the efforts by the Division of Water to secure non-State staff were economical and consistent with State procurement guidelines and whether the non-State staff possesses the necessary qualifications to perform their assigned jobs.

We performed this audit 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 list major contributors to this report in Appendix A.

*Office of the State Comptroller
Division of State Services*

August 22, 2006

EXECUTIVE SUMMARY

DEPARTMENT OF ENVIRONMENTAL CONSERVATION DIVISION OF WATER ACCOMPLISHMENTS OF SELECTED PARTNERING ORGANIZATIONS

SCOPE OF AUDIT

The Department of Environmental Conservation (Department) was created on July 1, 1970 to bring together in a single agency all New York State (State) programs and activities related to the environment. The Department's Division of Water (Division) is responsible for protecting water quality in rivers, lakes, reservoirs and wetlands, as well as aquifers and coastal areas by regulating wastewater discharges, monitoring water quality and controlling surface runoff. To help meet workload demands, the Division delegates some of its work to other State and non-State entities, known as partnering organizations.

During the audit period, two partnering organizations provided most of the non-State staff to the Division. The Regional Application Center for the Northeast (RACNE)/Institute for the Application of Geospatial Technology (IAGT) provided 24 of its employees, and the New England Interstate Water Pollution Control Commission (NEIWPCC) provided 23 of its employees. RACNE/IAGT performs tasks relating to the federal Floodplain Mapping Program as well as developing geographic information technology related to the watershed. NEIWPCC works on a United States Environmental Protection Agency grant under the federal Clean Water Act. Our report focuses on the work accomplishments of RACNE/IAGT and NEIWPCC employees.

Our audit addressed the following question about the use of RACNE/IAGT and NEIWPCC non-State staff for the period April 1, 1999 through November 8, 2005:

- Did the use of non-State staff accomplish certain program activities that the Division of Water had assigned to these staff?

AUDIT OBSERVATIONS AND CONCLUSIONS

We found that the Division used the staff of the partnering organizations to accomplish certain projects. However, in other instances, the work assigned to non-State staff was not always identified in measurable terms and with detailed budgets and timelines to track status and reach conclusions about accomplishments. As a result, the Division cannot demonstrate the extent to which some activities of the partnering organization non-State staff, particularly those assigned to NEIWPCC, helped to accomplish program requirements.

For example, some of the tasks assigned to RACNE/IAGT staff were measurable, and we could confirm that they were completed. Other tasks required RACNE/IAGT to provide a specific number of staff to perform work assigned by Division supervisors but, the work to be performed during the year was not quantified, and the Division did not maintain independent, complete records of what RACNE/IAGT non-State staff worked on and accomplished. In addition, the workplans with RACNE/IAGT are not maintained in a manner that readily identifies the overall status of tasks completed. As a result, we had to obtain information from RACNE/IAGT to help determine the status of certain tasks. The tasks assigned to NEIWPCC staff did not provide for specific deliverables or products, and were not expressed in objective, measurable terms. Although we determined that all tasks assigned to NEIWPCC had been started, it was not possible to determine whether any of the tasks had been completed. To adequately monitor the work of partnering organizations, the Division needs to implement a system that measures the amount of work accomplished and tracks progress toward Division goals. (See pp. 12-15)

Some of the tasks assigned to RACNE/IAGT involve the Floodplain Mapping Program of the Federal Emergency Management Agency (FEMA). We contacted FEMA to determine, among other things, whether FEMA was satisfied with the progress of work performed. FEMA responded that the work was stopped many times in order for FEMA and the Division to confer and develop the standards for the new mapping format being used and that the slow progress was understandable and acceptable. FEMA also reported that the quality of work is exceptional, but wants to see a better rate of production and believes the Department is now in a position to do so. (See pp. 16-17)

Department officials responded to our draft audit report that support was provided demonstrating tracking and reporting of floodplain mapping outputs for non-State staff. In addition, they stated that time and attendance records were kept by both IAGT and NEIWPCC in which overall progress towards one's assignments is measured, not each specific task. Department officials acknowledged, however, that planning and reporting for partnering organization tasks and accomplishments was not always consistent across program areas and they indicated that the Water Division continues to assess its work planning

processes on an annual basis and has and will continue to implement refinements.

We urge the Department to pursue refinements to its tracking of the status of efforts and accomplishments of partnering organizations. As of February 2005, the Department had paid \$14.4 million to RACNE/IAGT. For example, while Division officials documented the hours worked and the compensation received by workers, they could not provide information detailing the status of assigned tasks.

COMMENTS OF DEPARTMENT OFFICIALS

A draft copy of this report was provided to Department officials for their review and comment. We considered their comments in preparing this final report, and they are included as Appendix B. We have also included State Comptroller's Notes as Appendix C to address several of their comments.

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INTRODUCTION

Background

The Department of Environmental Conservation (Department) was created on July 1, 1970 to bring together in a single agency all New York State (State) programs and activities related to the environment. The Department's Division of Water (Division) is responsible for protecting water quality in rivers, lakes, reservoirs and wetlands, as well as aquifers and coastal areas by regulating wastewater discharges, monitoring water quality and controlling surface runoff. Many of the Division's programs are mandated by federal and State laws, including the Federal Clean Water Act, Federal Safe Drinking Water Act, National Flood Insurance Act, and the State Environmental Conservation Law. To help meet its workload demands, the Division delegates some of its work to other entities that have similar program mandates or specific expertise considered necessary for accomplishing Division goals. These entities, referred to as partnering organizations, include State agencies, community colleges, not-for-profit organizations, and an interstate commission.

Department records show that, as of January 2005, the Division had entered into 25 agreements with partnering organizations for varying periods between 1998 through 2012 to perform services for the Division at a total cost of about \$63 million. Some of the partnering organizations provided the Division with 57 non-State staff who work in the Department's central office and several of its regional offices. Two partnering organizations provided 47 of the 57 non-State staff. The Regional Application Center for the Northeast (RACNE)/Institute for the Application of Geospatial Technology (IAGT) provided 24 of its employees, and the New England Interstate Water Pollution Control Commission (NEIWPCC) provided 23 of its employees. NEIWPCC is an interstate commission established by an Interstate Compact in 1947 that authorizes it to serve and assist its seven member states to improve their water quality. Our report focuses on the work of the RACNE/IAGT and NEIWPCC employees under agreements from April 1999 to November 2005.

RACNE/IAGT Assigned Tasks

Some of the tasks assigned to RACNE/IAGT involve two federal programs: the Floodplain Mapping Program of the Federal Emergency Management Agency (FEMA) and the New York City Watershed Protection and Partnership Program (Watershed Program) of the United States Environmental Protection Agency (USEPA).

FEMA is responsible for the National Flood Insurance Program and oversees flood mitigation programs, such as the Floodplain Mapping Program. FEMA selected the Department to participate in a pilot project to do Flood Insurance Rate Maps (floodplain maps) in digital format using technology known as Light Detection and Ranging (LiDAR), which enables detailed and accurate topography. Historically, floodplain maps for the State's 62 counties were hardcopy and were used for about 20 years. According to officials associated with the pilot project, FEMA wanted to develop digital floodplain maps so that they could be updated on a five-year cycle and could be more readily available to the public. The goal of the pilot project, which involved Schoharie County, was to determine whether digital floodplain maps were feasible, and to develop the protocol and process for mapping.

Division officials advised us that the digital floodplain maps and related flood insurance study for Schoharie County were finalized in November 2003 and became effective in April 2004. The Schoharie County pilot project resulted in data standards and criteria for the mapping process, which were drafted in December 2004 and became final in May 2005 for use in future projects.

Division officials told us that Congress appropriated about \$8.2 million between 1998 and 2003 to the Department to assist in developing digital floodplain maps and to complete the Schoharie County pilot project. Subsequent to the end of Congressional appropriations, FEMA continued to fund the Division's digital floodplain mapping project from 2004 through 2005 at about \$2 million per year. Additionally, the State and localities contribute funds to the floodplain mapping project.

In 2004, FEMA required the Department to submit a business plan for completing the floodplain mapping project in all 62 counties. Division officials stated that the business plan reflects

the best case scenario for completing the floodplain maps. Assuming that the Division receives all funding (\$107 million) and staffing resources identified, the business plan shows that the maps would be completed by 2008. However, the floodplain mapping project is evolving, and final completion is contingent upon availability of federal, State and local funds.

FEMA and Division officials negotiate an annual workplan that identifies the counties each are responsible for mapping. Through 2005, FEMA was responsible for mapping the five counties of New York City, as well as Erie, Westchester, Orange and Monroe Counties. The Division was responsible for Schoharie, Greene, Cayuga, Onondaga, Dutchess and Ulster counties. According to Division officials, they are responsible for the community outreach and preliminary studies for all counties. The Division partners with RACNE/IAGT to perform floodplain mapping in compliance with FEMA regulations, as well as other activities assigned and directed by the Division.

RACNE was founded by the Cayuga Community College Board of Trustees in August 1998 and has an advisory council that operates under by-laws enacted by the Board. RACNE was originally established with sponsorship by the National Aeronautics and Space Administration to advance the application of geospatial information technologies developed as part of the space program to benefit society across government, education and commercial sectors. In 1999, the Division entered into an MOU with Cayuga Community College (Cayuga CC) and RACNE to determine whether the concept of digital floodplain maps could be created for the National Flood Insurance Program. In May 2001, Cayuga CC created the Institute for the Application of Geospatial Technology (IAGT), a not-for-profit corporation in the State, and IAGT selectively hired former RACNE employees. According to officials, IAGT was created because a larger organization was necessary to handle the work and opportunities available to RACNE. IAGT does the work formerly done by RACNE and administrative functions.

Since 1996, USEPA has provided funding to the Department for the Watershed Program. USEPA, the Department, the Mayor of New York City and several other State agencies and municipalities and several environmental entities are parties to a Memorandum of Agreement for the Watershed Program. A major component of this agreement is a land acquisition program which requires New York City to solicit a minimum of

335,050 acres of eligible watershed land in the most sensitive areas. The Watershed Land Information System (WALIS) is a land management system that is used by the New York City Department of Environmental Protection (DEP) for the Watershed Program and assists DEP in complying with this requirement. The Division assigned RACNE/IAGT the tasks of studying DEP's work process, determining work flow technology to improve DEP's efficiency in land management, and overseeing the development and implementation of WALIS. RACNE/IAGT subcontracted the project to PAR Government Systems Corporation. Division officials claim that the Watershed Program is used as an incubator for applications that have statewide benefits. For example, the topographical information contained in the WALIS modules can be applied to the floodplain mapping project.

Among the tasks in the workplans for RACNE/IAGT is providing a certain number of staff to the Division to perform work assigned by Division supervisors. These tasks are known as personnel service tasks.

In addition to the annual workplan negotiated between the Division and FEMA, the Division also enters into a separate and distinct annual workplan with RACNE/IAGT. This workplan specifies the tasks assigned to RACNE/IAGT for the year, which includes the work under the two previously-mentioned federal programs and the personnel service tasks.

NEIWPCC Assigned Tasks

The Division is responsible for assessing, managing and monitoring the water quality in New York State to ensure that the water is safe and meets standards under the federal Clean Water Act. The Department applied for a \$16 million grant from USEPA for water pollution control activities under the Clean Water Act. The Department requested USEPA transfer about \$1.5 million of the Department's \$16 million grant to NEIWPCC to perform outreach and training tasks identified by the Division. NEIWPCC is an interstate commission established by an Interstate Compact in 1947 that authorizes it to serve and assist its member states of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont to improve their water quality. NEIWPCC is located in Lowell, Massachusetts, and assists member states by coordinating activities and forums that encourage cooperation among the

states, educating the public about key water quality issues, supporting research projects, training environmental professionals, and providing overall leadership in water management and protection. NEIWPCC is overseen by 35 commissioners - five from each member state. New York State's commissioners include the commissioners of the Department of Health and the Department of Environmental Conservation, as well as three individuals not affiliated with the State.

Audit Scope, Objective and Methodology

We examined the Department's use of selected partnering organizations to accomplish certain program requirements in the Division for the period April 1, 1999 through November 8, 2005. This is the second in a series of two audits on this topic. In our first audit (2004-S-76), we examined the Division's workforce planning process and focused on the procuring of non-State staff to accomplish certain program requirements for the period April 1, 1999 through July 14, 2005. The first audit primarily focused on two of the non-State partnering organizations, RACNE/IAGT and NEIWPCC, which provide the largest number of staff to the Division. The audit included NEIWPCC's \$1.5 million grant from USEPA and excluded other agreements it had with the Division. Our current audit focuses on the work required to be done by these two partnering organizations.

To accomplish our objective, we met with officials from the Department, the Division, RACNE/IAGT, NEIWPCC and DEP. We obtained and reviewed RACNE/IAGT and NEIWPCC workplans and supporting documentation of work accomplished such as reports, time sheets, project deliverables, and quarterly reports for FEMA and USEPA. In addition, we visited DEP's Kingston office and observed a demonstration of WALIS by PAR Government Systems Corporation, an IAGT subcontractor.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and do our audit to adequately assess those procedures and operations included within our audit scope. Further, these standards require that we understand the Department's internal control structure and compliance with those laws, rules and regulations that are relevant to the Department's procedures and operations that are included in our audit scope. An audit

includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

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, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving the State's contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have 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 management functions do not affect our ability to conduct independent audits of program performance.

Response of Department Officials to Audit

We provided a draft copy of this report to Department officials for their review and comment. Their comments have been considered in preparing this final report, and are included as Appendix B.

The Department generally agrees with our recommendations and notes actions that it has taken to implement them. We have included State Comptroller's Notes in Appendix C of this report to respond to several Department comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Environmental Conservation 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.

ACCOMPLISHMENTS OF SELECTED PARTNERING ORGANIZATIONS

To effectively manage the work performed by partnering organizations, the Division needs to be able to measure the amount of work accomplished and to track progress toward Division goals. We found that while the partnering organizations have accomplished certain work, the work assigned to and performed by these organizations was not always measurable. As a result, the Division cannot demonstrate the extent to which some activities of the partnering organizations, particularly those assigned to NEIWPCC, helped to achieve Division goals. Division officials state that administratively it is too burdensome to make every task measurable. However, we believe tasks must be measurable to ensure that the work received from the partnering organizations is consistent with what they were required to do, and to ensure the State receives sufficient value for funds spent.

RACNE/IAGT Work Accomplishments

We found that a significant amount of work performed by RACNE/IAGT was on the floodplain mapping project. As of October 24, 2005, one county was completed; one county was nearly completed; and seven other counties were started. According to FEMA officials, the pilot project with the Department led to the development of the nationwide standards now in place for the digital mapping process and the quality of the work on the project has been exceptional. Based on a demonstration of WALIS by PAR Government Systems Corporation representatives, we noted that several components of WALIS have been developed. However, we found weaknesses in the monitoring of work assigned to RACNE/IAGT because the Division did not capture and track important information relating to work performed by RACNE/IAGT.

Monitoring of Work Performed

To help us evaluate RACNE/IAGT accomplishments, we reviewed workplans and any modifications to them. The

Department has approved four workplans with RACNE/IAGT covering the period April 1, 2000 through March 31, 2005 and approved budgets totaling about \$18.2 million, of which \$14.4 million was spent as of February 14, 2005 according to RACNE/IAGT records. The workplans included a total of 85 tasks. Forty-eight of these tasks require RACNE/IAGT to provide a specific product or deliverable; these tasks are subcontracted out by RACNE/IAGT. The remaining 37 tasks require RACNE/IAGT to provide staff to the Division to accomplish work at the Division's direction; these tasks are referred to as personnel service tasks. The staff that perform personnel service tasks report to Division supervisors and provide services based on a supervisor's direction. However, the work to be performed during the year by these staff is not quantified. For the period April 1, 2000 through March 31, 2005, the 48 subcontracted tasks were budgeted for about \$11.4 million and the personnel service tasks were budgeted for about \$6.8 million.

We found that the Division did not maintain independent, complete records of work accomplished by RACNE/IAGT. The workplans with RACNE/IAGT are not maintained in a manner that readily identifies the overall status of tasks completed. For example, the workplans do not identify tasks that have been completed in prior years. As a result, we reviewed other information available from the Division and RACNE/IAGT to determine the status of the 85 tasks contained in the four workplans. Information available from RACNE/IAGT showed that 36 tasks were completed, as of June 9, 2005. However, Division records indicated that only 6 of 85 tasks were completed as of May 19, 2005. Table 1 summarizes the status of the 85 tasks, based on information available from RACNE/IAGT.

Table 1 Task Status for Workplans 2 Through 5 April 1, 2000 - March 31, 2005 Per RACNE/IAGT as of June 9, 2005			
Tasks Status	Tasks Subcontracted By RACNE/IAGT	Personnel Service Tasks	Total Tasks
Completed	16	20	36
Carried Over to Workplan 5	16	0	16
Ongoing	15	8	23
Dropped	1	9	10
Total	48	37	85

Subsequent to our closing conference, the Department provided an updated task status per Division records which showed that 40 tasks were completed, 20 were carried over, 2 were dropped and 23 were ongoing.

We judgmentally selected a sample of 9 of the 36 tasks shown as completed by RACNE/IAGT to confirm their status and to determine how they addressed Division requirements. The sample consisted of three personnel service tasks that cost \$1.1 million and six subcontracted tasks that cost \$4.1 million. We met with RACNE/IAGT and DEP officials, and discussed the extent of work completed. We also reviewed supporting records from RACNE/IAGT, such as reports and a sample of employee timesheets.

Information received from RACNE/IAGT such as formal reports, sample maps and a demonstration of WALIS by a PAR Government Systems Corporation representative indicated that six contracted tasks were completed. The status of the three personnel service tasks could not be established because the tasks were not stated in quantified terms, and supporting documentation did not show specifically what the assigned staff worked on. For example, one task was for RACNE/IAGT to provide staff to assist with completing various inspections as well as outreach and coordination functions within the New York City watershed area. However, the task did not specify the expected activity levels, such as the number of inspections to be completed. We selected a sample of timesheets for each of the three personnel service tasks to determine staff activities for

that period. For two tasks that were in effect during fiscal year 2003-2004 we reviewed timesheets for the four months of April, June and September of 2003 and March 2004. For the other task that was in effect during fiscal year 2002-2003 and part of 2003-2004, we reviewed timesheets for the six months of June and September 2002 and March, April, June and September 2003. The timesheets supported the number of staff that worked on each task, but did not show what activities the staff actually performed. For example, we could not determine how many inspections the staff completed for one task. Therefore, it is not possible to establish the completion status of these tasks or how much work was accomplished.

We were advised that in April 2004, RACNE/IAGT began to use the Department's activity codes on their timesheets to track the work activities of the employees doing Division work. Prior to this, the Division did not use codes to track RACNE/IAGT staff activities, although activity codes were used for Department employees. We concluded that the Division did not keep independent, complete records on RACNE/IAGT progress and staff activities because it relied on RACNE/IAGT to do so. For example, Division officials told us that they had treated RACNE/IAGT as a "sister agency" under the MOU in helping meet Division goals. They also told us that they now require new reports to better monitor IAGT activities.

RACNE/IAGT officials told us that the workplan process has evolved and become more performance based. For example, in addition to using the Department's activity codes, RACNE/IAGT improved the workplan document. In the past, revised workplans would show only the revision, making it difficult to determine what the full workplan required. Workplans now show the revision and parts of the original workplan that are still in effect. Division officials indicate that it is too costly and administratively burdensome to have a system where every personnel service task includes specific output-based deliverables. They further indicate that the current system allows more flexibility to manage partnering organization staff, allows them to be fully integrated into the workflow of their units, and results in less administrative overhead. However, it is important to quantify the work expected to be performed and to measure the work accomplished, particularly due to the ongoing nature of the work performed by RACNE/IAGT.

Other Indicators of Progress Relating to Floodplain Mapping

Because the Division receives federal funding for the floodplain mapping project, it is required to submit quarterly progress reports to FEMA. We reviewed these quarterly reports to obtain an understanding of how progress is reported and to test the accuracy of this information. We also contacted FEMA officials to gain their perspective on the progress made on this project.

FEMA has prescribed that the quarterly report includes 16 activities for completing floodplain maps by county. We tested the accuracy of the completion dates on the April 2005 quarterly report, which was the most recent report available. We judgmentally selected Cayuga County out of the eight counties included in the report because it had the most completed activities (i.e., 14 of 16 activities were completed).

We compared the actual completion dates for Cayuga County according to the FEMA report to supporting documents and information provided by RACNE/IAGT staff. We were unable to match the completion dates for 3 of 14 activities in the quarterly report to the supporting documents. For example, the completion date on the quarterly report for Hydrologic Analysis is shown as July 10, 2003, but supporting documentation shows the date should be October 7, 2003. Such inconsistencies raise questions about the accuracy and usefulness of the quarterly report as an indicator of progress actually made.

In addition, we sent a letter to FEMA to inquire about which counties had completed floodplain maps, and whether FEMA was satisfied with the digital floodplain mapping progress. The Chief of the Hazard Identification and Risk Assessment Branch, FEMA Region II, responded to our letter. The FEMA official stated that Schoharie County was complete, and that the pilot project was the first effort in the nation to prepare floodplain maps in digital format using LiDAR technology. She indicated that the work was stopped many times for FEMA and the Division to confer and develop the standards for this new mapping format, which is used as a basis for the nationwide standards now in place. The FEMA official indicated that the pilot project took several years and the slow progress was understandable and acceptable. The official also reported that the quality of work is exceptional, but wants to see a better rate

of production and believes the Department is now in a position to do so.

NEIWPCC Work Accomplishments

Under the \$1.5 million federal grant allocation, NEIWPCC submits workplans, budgets and quarterly reports to USEPA; the Division receives copies of these documents. NEIWPCC provides staff to the Division that work at the Division's offices under the supervision of Division staff. The work to be performed by the NEIWPCC staff is contained in NEIWPCC's current workplan, which covers the three-year period ending September 30, 2006.

NEIWPCC's scope of work contains two objectives: Public Participation and Stewardship, which includes 8 tasks, and Water Quality Management, which contains 16 tasks. The two objectives are part of the Division's program mandates. We determined that all 24 tasks had been started. However, it is not possible to determine whether the tasks have been completed because: the tasks are not for specific deliverables or products; they are not expressed in objective, measurable terms; and the format used to report work activities to USEPA does not summarize the accomplishments by workplan tasks.

We observed that the 24 tasks are activities of an ongoing nature that are typically performed by the Division, as shown in the following examples:

- work closely with program decision makers to develop public participation and stewardship outreach workplans;
- assist program staff to incorporate results of public involvement and stewardship programs into water programs and policies;
- attend meetings of county coordinating committees;
- perform ambient water quality surveys; and
- assist the Department in the support functions for various water quality program activities.

We concluded that 16 of the 24 tasks could be measured, such as: performing ambient water quality surveys; investigating

complaints related to point and non-point source discharges; and performing surveys to identify discharges of pollutants. The remaining eight tasks needed to be stated in more specific terms to permit measurement.

Our review of the current workplan shows that its total budget is not broken down by task. For example, the workplan identifies the total staff needed but does not quantify the number of staff required for a particular task, when the task will be completed, or how much each task is budgeted to cost. Therefore, the level of work required to complete each task cannot be readily determined and a framework is not provided for measuring accomplishments by task. Division officials stated that the workplan tasks are not specific because NEIWPCC staff may assist, analyze, advise or draft documents for the Division, but may not issue policy or permits; only the Department is authorized to perform these tasks. While we recognize that the roles of NEIWPCC are limited to certain types of activities, we believe that it is still possible to establish measurable tasks.

NEIWPCC submits quarterly reports to USEPA identifying the tasks performed during the period. We reviewed the three quarterly reports for the period July 2004 through March 2005 to determine the status of the 24 tasks. We noted that the reports are not formatted to enable someone to gauge the level of accomplishment at a specific point in time. The quarterly reports contain NEIWPCC projects in all its member states and list work activities by State and by person. However, the work activities are described in a narrative format that does not readily tie the work accomplished back to a particular task in the work plan.

We interviewed a sample of 4 of 12 Division employees who supervise NEIWPCC staff to determine how these Division employees monitor the progress of the 10 NEIWPCC staff assigned to them. We selected the Division employees who supervised more than one NEIWPCC staff. The Division supervisors told us that they meet daily or weekly with the NEIWPCC staff to review their assignments and progress. NEIWPCC staff provides monthly reports similar to the USEPA quarterly reports to their immediate Division supervisor. Monthly report formats vary depending on the Division supervisor, but generally are narrative format by topic, such as Stormwater Project or web site statistics. However, because the tasks are not in quantifiable form, the monthly reports are of

limited use in gauging work accomplished against specific workplan tasks.

Throughout the audit, Division officials reiterated that the flexibility in managing NEIWPCC staff, allows them to be fully integrated into the workflow of their units, and results in less administrative overhead. They also point out that USEPA has not withheld grant revenue for unsatisfactory progress. While this may be true, the system in place does not provide the Division with data needed to determine how much the work done by NEIWPCC costs by task nor does it provide information about which of the Division's program requirements were achieved by NEIWPCC staff. In addition, NEIWPCC employees are working on the Department's behalf, and the Department is responsible for their work and the results in terms of productivity.

Recommendations

1. Establish a system to routinely track progress by partnering organizations toward meeting agreed-upon tasks. The system should include, but not be limited to, establishing measurable activities and deliverables, and reporting progress related to each task.
2. Periodically compare the information maintained by RACNE/IAGT and the Division as to the status of all tasks (including personnel service tasks) and account for differences.
3. Take steps to accurately capture and track floodplain mapping activity completion dates recorded on FEMA quarterly reports and assess their rate of production.

MAJOR CONTRIBUTORS TO THIS REPORT

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APPENDIX B

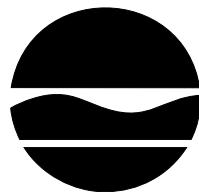
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Denise M. Sheehan
Commissioner

June 23, 2006

Ms. Carmen Maldonado
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Dear Ms. Maldonado:

The New York State Department of Environmental Conservation (Department) has reviewed the State Comptroller's draft report 2005-S-46, "Accomplishments of Selected Partnering Organizations." The attached pages contain the Department's response to the draft report.

Thank you for the opportunity to respond to the draft report. If you need to discuss any of this response, please contact me at (518) 402-9147.

Sincerely,

William L. Herman
Director of Internal Audit

cc: D. Spaulding
L. Stark
R. Moore
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Attachment

The following is the New York State Department of Environmental Conservation's (Department) response to the State Comptroller's draft report 2005-S-46 "Accomplishments of Selected Partnering Organizations." The Department's response is presented in two sections.

- Comments on Described Conditions and Findings
- Response to Recommendations

Comments on Described Conditions and Findings

The following are specific comments that the Department has regarding wording and findings contained in the draft report.

Comment 1:

Only a portion of the citation of the Federal Emergency Management Agency (FEMA) response is presented in the draft report. The full text of the FEMA response provides a clearer picture. The Office of the State Comptroller (OSC) refers to FEMA's September 27, 2005 response and states that FEMA "wants to see a better rate of production and believes the Department is now in a position to do so." The complete text of those two sentences is as follows. "Since Schoharie County has been completed, we would like to have seen greater progress in the rate of production. But we have conferred with NYSDEC in depth and believe that they now have a system of contracts in place that will allow them to demonstrate faster production." That FEMA reference is in relation to the fact that based upon the Schoharie pilot, portions of the floodplain mapping process had moved beyond the pilot stage. Associated FEMA standards were issued in draft form in December, 2004 and finalized in May, 2005. Therefore, the Department began moving toward open competition in accordance with the New York State procurement process in May, 2004. Project production was delayed significantly during this procurement process. However, three OGS contracts were awarded in March 2005 and work is currently underway under all three. (*See page 3; 3rd paragraph and bottom of page 16 to top of page 17*).

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Comment 2:

Several references are made in the draft to specific deliverables or products not being tracked. However, many documents were provided to the OSC showing that floodplain mapping outputs for non-State staff were tracked independently and separately through monthly survey planning and reporting. In addition, time and attendance records were kept by both IAGT and NEIWPCC, similar to those produced from the Department's time and attendance system in which overall progress toward one's work

assignments is measured, not each specific task. The Department does acknowledge however that planning and reporting was not consistent across program areas. The Division of Water (Division) continues to assess its work planning process on an annual basis. For example, during State fiscal year 2004-05 outputs for non-State staff assigned to the regional offices were incorporated into the process. During State fiscal year 2005-06, the process was refined even further. For State fiscal year 2006-07, the Division has now incorporated separate time and attendance and output tracking for both regional and central office non-State staff into all work plans. (*See page 3, 2nd paragraph; page 12, 1st paragraph; page 12 2nd paragraph; page 13 and page 14; page 15 last paragraph; page 16, 2nd paragraph*)

Comment 3:

The Department continues to request that OSC specifically note that RACNE/IAGT is involved with both water quality and flood protection activities. (*See page 2; 1st paragraph and page 6; 1st paragraph*).

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Comment 4:

The Department concurs that RACNE had been considered a sister state agency under the purview of OSC at the time of execution of the MOU. In Fall 2004, within a month of verbal notification by OSC that RACNE should not be considered part of the SUNY system for contracting purposes; the Department started the procurement process to convert the MOU to a contract. That contract became effective April 1, 2006. While the Department continues to agree that certain tasks cannot be delegated, the Department will also continue to pursue partnerships in accordance with existing OSC requirements, with federal, state and local partners to enhance appropriate skills sets when approved during their annual work planning process. (*See page 15.*)

Comment 5:

While the Department acknowledges that reporting requirements were not consistent across program area or across partnering arrangements, the Department notes that OSC's own method of reviewing the reporting activities differed between IAGT and NEIWPCC. Because of NEIWPCC's needs to be consistent in its grant application and reporting requirements for all of its member states, the Department will not require NEIWPCC to alter the grant application and reporting requirements approved by the United States Environmental Protection Agency (USEPA). However, as noted above, the Division has now incorporated a separate internal time and output planning and tracking system, parallel to that required of state employees, into each Bureau and regional work plan (*See page 12, 1st Paragraph and Pages 17 through page 19.*)

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Comment 6:

References to the IAGT subcontractor (PARS) should read PAR Government Systems Corporation (PGSC). (*See page 9, top paragraph (PARS), page 10, 2nd paragraph under audit scope; page 12, 2nd paragraph (PAR); and page 14, 3rd paragraph (PARS).*)

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Comment 7:

The Department does not concur with the wording that RACNE provides programmatic oversight of IAGT. The Department recommends, for this sentence to be accurate that it ends after “.... work formerly done by RACNE.” (*See page 8, 3rd paragraph, last sentence*).

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Comment 8:

When referring to the Memorandum of Agreement for the Watershed Program, the words “and several environmental parties” should be included. (*See page 8, last paragraph*).

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Comment 9:

The Department continues to disagree with OSC’s analysis regarding Task Status calculations. The Department requested OSC to provide the details of its analysis for our review so the Department could better address the finding. OSC declined to accommodate the Department’s request. Without the benefit of the OSC analysis, the Department attempted to derive the numbers that OSC used. It appears that OSC counted all four work plans as open tasks. The 37 personal service tasks to which OSC refers are only effective from the beginning of the annual work plan until the end of that particular work plan cycle. While subcontracted tasks that were not complete did roll forward from year to year, personal services tasks were closed out each year and did not remain open once the new work plan took effect as OSC’s table infers. On May 19, 2005, the Department provided information to OSC reflecting the Department’s list of open subcontracted tasks and their status. Based on that analysis, the Department’s records showed 40 completed tasks, 20 tasks which were carried over to a more recent annual work plan, two tasks which were dropped and 23 ongoing tasks. The OSC Expenditure Unit verified that there were no duplicate payments made against multiple work plans for any MOU costs. (*See pages 13 and 14*).

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Comment 10:

When referring to the FEMA response, “He” should be “She” as the respondent was Mary Colvin. The Department agrees that there was a discrepancy concerning the referenced output which existed because the date entered on the report reflected the initial submittal date while the October 7th date reflected the final date after review and responses were received. FEMA is now requiring states to report electronically into a new system and the only dates reported in that system reflect final completion of tasks. The Department has since appointed an environmental engineer to act as a reporting liaison with FEMA and its joint grant contractors. The liaison is responsible for addressing matters concerning FEMA’s reporting requirements. (*See page 16*).

Comment 11:

The Department concurs that its MOA with NEIWPCC needed to be updated at the time of the audit. However, the current MOA effective through March 31, 2010 was executed on February 1, 2006. (*See page 17*).

Response to Recommendations

The following presents the Department’s response to each recommendation contained in the draft report.

Recommendation 1: Establish a system to routinely track progress by partnering organizations toward meeting agreed-upon tasks. The system should include, but not be limited to establishing measurable activities and deliverables, and reporting progress related to each task.

Response to Recommendation 1: We appreciate the recommendation. As the tasks with our partners became more involved and some became extended, we realized that there was a need for more comprehensive project management. The Division is already tracking tasks in a more uniform and detailed manner. While this has enabled us to better track tasks, progress and payment of invoices, we are always looking for ways to improve the Division’s project management processes. Along these lines, the Division is continuing to investigate reasonable cost project management enhancements, including the use of available software tools.

Moreover, single source contract with IAGT, which took effect on April 1, 2006, includes defined tasks and activities, deliverables and reporting requirements. This contract was approved by both the Attorney General and the State Comptroller.

Because NEIWPCC's federal grant application and reporting process complies with EPA requirements and needs to be consistent for all of its member states, the Department will not request NEIWPCC to unilaterally alter its current process. However, the Department has reviewed its planning and tracking of both time and outputs for NEIWPCC staff during the annual work planning process and those requirements have been incorporated into and are consistent with the work planning done for state employees.

Recommendation 2: Periodically compare the information maintained by RACNE/IAGT and the Division as to the status of all tasks (including personnel service tasks) and account for differences.

Response to Recommendation 2: As noted in the response to Recommendation 1. above, the Department will now monitor IAGT under its new contract.

Recommendation 3: Take steps to accurately capture and track floodplain mapping activity completion dates recorded on FEMA quarterly reports and assess their rate of production.

Response to Recommendation 3: As the Department explained during the audit, FEMA reporting requirements continue to evolve and have in fact changed to an electronic reporting system since the audit. The Department has appointed an environmental engineer to act as the liaison with FEMA and its contractor in joint grant reporting to discuss reporting requirements. In addition, the Department will continue to have quarterly progress reports with FEMA. After meeting with the Department on May 2 and 3, 2006, FEMA stated they were pleased with the Department's progress. To underscore this satisfaction, FEMA subsequently increased the Department's annual grant award for Federal fiscal year 2006 by \$200,000 from \$2,000,000 to \$2,200,000.

State Comptroller's Notes

1. We paraphrased rather than quoted FEMA's response for the sake of brevity and believe that our report accurately represents the nature of FEMA's response. We acknowledge the additional details provided by the Department and are pleased that the Department has entered into three OGS contracts through an open-competitive process.
2. We have revised the report to reflect information provided in the Department's response.
3. We applied audit techniques that we considered appropriate under the circumstances to IAGT and NEIWPCC, consistent with the types of agreements and the progress reporting methods that existed at the time.
4. We are surprised that DEC-DOW disagrees with the information regarding task status. This information was provided by an IAGT official in the presence of several DEC-DOW officials and there was no indication that IAGT's information was incorrect. Therefore, we question DEC-DOW's attempt to discredit the accuracy of the information when it was provided by the contractor paid to maintain administrative information regarding the projects. We believe that the confusion over the Task Status illustrates our point that the Department did not have a system to accurately track Task Status, independent of information from IAGT. As for the reference to personal service tasks, they were not always completed in the same year. For example, task 506 "survey staff" was classified as "on-going" as were tasks 507 "Map Modem Position" and 414 "On-site Systems and DB Administration."

Our report recognized the receipt of information dated May 19, 2005 from DEC-DOW which indicated only 6 of 85 tasks were complete. Clearly, the results in Table 1 place DEC-DOW in a much better position.