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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 9, 2006

Mr. Vincent A. DeIorio, Esq.
Chairman
New York State Energy Research
& Development Authority
17 Columbia Circle
Albany, NY 12203

Mr. John J. Spano
Acting Commissioner
New York State
Office of General Services
Empire State Plaza, Corning Tower
Albany, NY 12242

Re: Procurement of Energy Efficient Products
Report 2006-S-24

Dear Mr. DeIorio and Mr. Spano:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 and Article X, Section 5 of the State Constitution, Article II, Section 8 of the State Finance Law and Section 2803 of the Public Authorities Law, we audited the procurement of energy efficient products for New York State during the period April 1, 2004 through March 31, 2006.

A. Background

On June 10, 2001, the Governor signed Executive Order No. 111 "Green and Clean State Buildings and Vehicles" (Order), directing State agencies to be more energy efficient and environmentally aware. The Order, among other things, specified new energy efficiency objectives for State agencies and other affected entities, such as public authorities and local governments, and directed that they select energy efficient products (e.g., Energy Star) when acquiring new energy using items or replacing existing equipment. Energy Star is a federal program administered by the Environmental Protection Agency and the U.S. Department of Energy, which identifies a large range of products that meet strict energy efficiency guidelines. The purpose of the Energy Star Program is to save money and protect the environment through use of energy efficient products and practices.

The New York State Energy Research and Development Authority (NYSERDA) is a public benefit corporation created in 1975 to foster development and use of safe, dependable, renewable and economic energy sources and the conservation of energy and its resources. Under the Order, NYSERDA was directed to establish target efficiency levels for products that do not have the Energy Star label. In addition, NYSERDA is responsible for coordinating the implementation of the Order and assisting the agencies and affected entities in fulfilling their responsibilities in a cost effective manner.

The Office of General Services (OGS), as the State's centralized purchasing agent, is responsible for assisting State agencies with meeting their procurement needs. As such, OGS should incorporate the Order's requirements in establishing statewide contracts for commodities and technologies that utilize significant amounts of energy. With the guidance and assistance supplied by NYSERDA, and the availability of statewide contracts established by OGS, State agencies and affected entities are better positioned to fulfill their responsibilities to purchase energy efficient products.

B. Audit Scope, Objectives and Methodology

The objectives of our performance audit were to determine whether: NYSERDA established adequate guidelines; OGS appropriately established statewide contracts for energy efficient products; and affected State entities appropriately acquired energy efficient products, for the period April 1, 2004 through March 31, 2006. To accomplish our objectives, we reviewed NYSERDA's guidelines for Energy Star and other energy efficient products. We also reviewed the statewide contracts that OGS established and compared these contracts to the Energy Star and energy efficient standards established by NYSERDA. Lastly, we reviewed purchases made by seven judgmentally selected agencies.

We did our audit according to generally accepted government auditing standards. Such standards require that we plan and do our audit to adequately assess NYSERDA, OGS, and select agencies operations 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 that our audit provides a reasonable basis for our findings and conclusions.

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 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 management functions do not affect our ability to conduct independent audits of program performance.

C. Results of Audit

We found that NYSERDA adopted guidelines consistent with the Order. NYSERDA is responsible for establishing target energy efficiency levels for products not carrying an Energy Star label. For products not labeled Energy Star, NYSERDA refers affected entities to the Federal Energy Management Program (FEMP) website. FEMP is a federal program that provides energy efficiency recommendations and product specifications for approximately 65 types of products.

We also found that OGS appropriately established statewide contracts consistent with the Order. OGS set up 95 different Energy Star and energy efficient contracts for products used by many State agencies. We found that OGS statewide contracts are available for 23 of the 65 product types listed on the FEMP website. OGS creates contracts based on consumer demand and use, and is not required to establish contracts for all 65 FEMP products. Furthermore, many other Energy Star or energy efficient products are included in eight comprehensive contracts with general vendors, all of which contain clauses that require the use of energy efficient products when available.

To determine whether State agencies were properly purchasing Energy Star and energy efficient products, we analyzed 8.8 million purchase records for the period April 1, 2004 through March 31, 2006. From the list of 65 energy efficient product types on the FEMP website, we selected a sample of 25 energy using products for further review. We identified 1,629 possible purchases of these 25 products that could not be attributed to Energy Star or energy efficient State contracts. From these 1,629 purchases, we judgmentally selected the seven Capital region agencies which had the highest volume of purchases, contacted each agency and requested copies of invoices for the purchases we identified in our sample. We found that only 2 of 234 sampled invoices were for energy using products that were not Energy Star or energy efficient. Therefore, we conclude that State entities are appropriately acquiring Energy Star or energy efficient products consistent with the Order.

We provided a draft copy of this report to NYSERDA and OGS officials for their review and comment. Their comments were considered in preparing this report. A complete copy of NYSERDA's and OGS' responses are included as Appendices A and B, respectively.

Major contributors to this report were John Buyce, Joel Biederman, Ron Pisani, Lisa Rooney, Résa Ostrander, Nadiuska Wimbush, Peter Pagliaro, Ashley Nightingale, Gary Nicoll and Susan DiFiore.

We wish to thank the management and staff of NYSERDA and OGS for courtesies and cooperation extended to our auditors during the audit.

Very truly yours,

Frank J. Houston
Audit Director

cc: Lisa Ng, Division of the Budget
Jeff Pitkin, NYSERDA
Robert Curtin, OGS



New York State Energy Research and Development Authority

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October 11, 2006

VIA FAX 212-417-5176 & MAIL

Frank J. Houston, Audit Director
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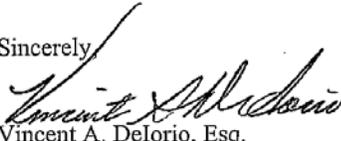
Dear Mr. Houston:

This letter is in reply to your draft audit report (2006-S-24) regarding Procurement of Energy Efficient Products. We are pleased that the report concludes that NYSERDA's guidelines establishing target efficiency levels were consistent with the Order's requirements and we accept, and agree with, the results of the report.

We thank you and your staff for the professionalism displayed during the course of your examination.

Please contact me if you have any questions or need additional information.

Sincerely,


Vincent A. Delorio, Esq.
Chairman

cc: J. Pitkin (via fax)

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ROBERT J. FLEURY
FIRST DEPUTY COMMISSIONER

September 26, 2006

Mr. Frank Houston
Audit Director
Office of the State Comptroller
Division of State Services
State Audit Bureau
123 William Street - 21st Floor
New York, NY 10038

Dear Mr. Houston:

I am writing in response to your letter dated September 11, 2006 conveying the draft audit report 2006-S-24 regarding the procurement of energy efficient products.

One of the Goals of Executive Order 111 was for New York State government to "assume a leadership role in promoting the efficient use of energy and natural resources in the interest of the long-term protection and enhancement of our environment, our economy, and the health of our children and future generations of New Yorkers." Part of this effort has involved New York State Energy Research Development Authority researching products and designating qualifying products as Energy Efficient. Our Procurement Services Group (PSG) then makes it easy for agencies to purchase these products by developing contracts that qualifying users can use to purchase these energy efficient products.

Your audit confirms that our efforts have been successful. It is further apparent from the results of your audit that our efforts to make contract users aware of these contracts have worked.

In these days of heightened environmental concerns, our efforts are helping to reduce energy consumption.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Fleury". The signature is stylized and written over the printed name below it.

Robert J. Fleury

