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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**OLYMPIC REGIONAL
DEVELOPMENT
AUTHORITY**

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

Report 2008-S-75

AUDIT OBJECTIVE

The objective of this audit was to determine whether the Olympic Regional Development Authority (ORDA) 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 2005 all State agencies and certain public authorities, including ORDA, 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 2010. The agencies can acquire qualifying electric energy by generating it themselves, or by purchasing it either through their electrical suppliers or through a third-party provider in the form of a Renewable Energy Certificate.

We found that ORDA's renewable energy purchases, as a percentage of its annual electric energy consumption, totaled about 8.3 percent and 8.4 percent, respectively, for its 2005-06 and 2006-07 fiscal years. This is significantly less than the Order's 10 percent minimum requirement. ORDA has fallen short of the 10 percent goal because its methodology for estimating power needs does not reflect current data, but rather is based on electrical consumption data from 2003-04. We also found that ORDA's plan to comply with the Order's 20 percent target level by 2010 is also based on its 2003-04 electrical usage. As a result, we conclude ORDA will also not meet that target. ORDA needs to develop future energy plans based on more

current electric consumption information that includes estimates for growth. ORDA also has not submitted any of its required annual energy reports to the New York State Energy Research and Development Authority (NYSERDA) since the inception of the Order. ORDA officials indicate they are preparing the 2007-08 annual energy report, which is due to NYSERDA by December 1, 2008, and plan to prepare and submit the required reports in future years.

Our audit report contains three recommendations directed towards improving ORDA's efforts to comply with the Order. ORDA officials generally agreed with our recommendations.

This report, dated December 4, 2008, is available on our website at:<http://www.osc.state.ny.us>.

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Office of the State Comptroller
Division of State Government Accountability
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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, including ORDA, 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 Section IV of the Order, which requires agencies to purchase power from renewable sources.

Specifically, Section IV of the Order requires that by 2005 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, and leases would come from renewable sources. The target percentage increases to 20 percent by 2010. 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, photovoltaics, sustainably managed biomass, tidal (excluding hydro), 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 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 suppliers or through a third-party provider in the form of

certificates referred to as Renewable Energy Credits (RECs).

The New York State Olympic Regional Development Authority (ORDA) was created by the State of New York to manage and protect the public's investment in the Lake Placid Olympic facilities used during the 1980 Olympic Winter Games. ORDA operates five venues: Whiteface Mountain, Gore Mountain, the Olympic Center, the Olympic Jumping Complex, and the bobsled run at the Verizon Sports Complex. ORDA has hosted more than 300 major national and international events and competitions, held during both the winter and summer, since its inception. ORDA is also a major promoter of tourism in Lake Placid and the surrounding communities throughout the year. ORDA has a budget of more than \$9 million with a workforce of over 200 for fiscal year 2008-09.

ORDA is responsible for acquiring electrical power for all five of its venues. Electricity is supplied to the Olympic Center, Olympic Jumping Complex, and the Verizon Sports Complex by the New York Power Authority (NYPA) through the Lake Placid Electric Company. Whiteface Mountain's electricity is supplied through New York State Electric and Gas (NYSEG), while Gore Mountain's power is supplied through National Grid (formerly Niagara Mohawk).

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with the Order

Procurement of Renewable Energy

The Order requires State agencies and other affected entities, such as ORDA, to seek to procure 10 percent of their total electrical energy requirements by 2005 from renewable

sources, and 20 percent from those renewable sources by 2010.

The Order specifies wind, solar thermal, photovoltaics, sustainably 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.

Covered agencies may exempt electrical loads that are used for certain processes (e.g., electricity associated with the manufacturing of goods, products or services) and electricity used by a building with less than 5,000 square feet.

ORDA initially attempted to procure its renewable energy through the New York State Office of General Services (OGS), but was informed in August 2005 that OGS was unable to do this at the time. OGS advised that ORDA either go through its local utility provider or issue a solicitation to green power suppliers to comply with the Order. ORDA was unable to acquire eligible renewable power through NYPA. As a result, it contracted with a third-party provider in November 2005 to supply qualifying renewable energy to Gore and Whiteface Mountains. Each contract requires that the

provider procure a certain percentage of each venue's total electrical consumption in the form of renewable energy that meets the Order's specifications.

ORDA excludes certain process-oriented electrical loads from its consumption calculations. However, even with those exemptions we found that ORDA's renewable energy purchases totaled about 8.3 percent and 8.4 percent, respectively, for its 2005-06 and 2006-07 fiscal years, which was significantly less than the Order's 10 percent minimum requirement. ORDA fell short of meeting the 10 percent target because it used outdated electrical consumption information from 2003-04 to calculate the amount of renewable energy required for later years. As a result, ORDA estimated that 817,000 kWh of renewable energy would be needed for both 2005-06 and 2006-07. However, our calculations show that the actual amount of renewable energy required, should have been at least 988,000 kWh in 2005-06 and 1,015,000 kWh in 2006-07.

The Order requires covered agencies to increase their target for renewable energy purchases in 2010 from 10 percent of the total annual electricity consumed to 20 percent. As part of their annual energy reports, entities are asked to describe strategies being undertaken to meet the Order's increasing procurement requirements. Although ORDA has not submitted an annual energy report documenting formal plans for meeting the target, we found ORDA does have an informal plan to increase the percentage of renewable energy purchased through contracts with green power providers.

However, as previously noted, we found that ORDA's estimates of need are based on its 2003-04 electrical consumption and do not take into consideration growth in electrical consumption from one year to the next to

forecast future needs. As a result, we conclude ORDA's strategy to meet the increased target is unlikely to be effective, since growth in electrical consumption has already been largely responsible for its failure to meet the current requirements. The current contracts for Gore and Whiteface Mountains each expired in June 2008 and ORDA is currently seeking alternative bids to meet its electrical needs for 2008-09.

Reporting Requirements

NYSERDA's guidelines require every State agency and other affected entities to submit an Annual Energy Report to NYSERDA by December 1st following the close of each fiscal year. The first annual 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. It is also an opportunity for NYSERDA to review process load justifications and calculations. 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, as well as their methodology for the calculation of any exemptions. 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.

We found that ORDA has not filed an Annual Energy Report with NYSERDA since the inception of the Order. ORDA officials stated that there was some confusion between the Purchasing Department and the Project Administrator as to who was responsible for submitting the reports. They informed us that the Purchasing Department circulated the annual energy report to all of the venues, but assumed that the Project Administrator was

submitting the actual report to NYSERDA. The Project Administrator in turn believed that the Purchasing Department had submitted the completed report. In response to our draft report, ORDA officials stated they agree with the importance of NYSERDA's review of their process load justification and calculations and shall adhere to this philosophy with the development and submission of their annual energy report for 2007-08.

Recommendations

1. Comply with the requirements in the Order to procure renewable energy.
2. Develop future energy plans based on current electric consumption information that include estimates for growth in electrical consumption.
3. Comply with annual energy reporting requirements.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. The objective of the audit was to determine whether ORDA was in compliance with Section IV of the Order by procuring at least 10 percent of its power from renewable sources by 2005, and has a plan in place to meet the 20 percent target level in 2010. Our audit period was from April 1, 2003 through June 30, 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 ORDA officials and staff to determine what steps were taken to comply with the Order. To verify ORDA's electrical consumption and purchase of renewable

energy for 2005-06 and 2006-07, we requested copies of invoices pertaining to electrical consumption for all five ORDA venues. We also reviewed separate supporting documentation to verify the 2003-04 electrical consumption numbers that ORDA used to generate its estimated annual non-process load for 2005-06. In addition, we reviewed all the renewable energy contracts in effect between 2005-06 and 2008-09 to ensure compliance with the Order.

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

We performed this audit pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

REPORTING REQUIREMENTS

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

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

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Houston, John Buyce, Bob Mainello, Thalia Melendez, Sally Perry, and Constance Walker.

APPENDIX A - AUDITEE RESPONSE



04 November 2008

Office of the State Comptroller
Division of State Government Accountability
Attn: Frank J. Houston
123 William Street, 21st Floor
Albany, NY 12236

RE: Olympic Regional Development Authority – Compliance with Executive Order 111
Requirements to Purchase Power from Renewable Sources, Report 2008-S-75 “Draft”

Dear Mr. Houston,

Thank you for the opportunity to review and comment on the above referenced report. It is our understanding that three recommendations have been presented:

1. Comply with the requirements in the Order to procure renewable energy.
2. Develop future energy plans based on current electric consumption information that include estimates for growth in electrical consumption.
3. Comply with annual energy reporting requirements.

ORDA appreciate the efforts from the Comptrollers Office and full accepts recommendations 2 & 3 without comment. However, we do take exception to the full scope of recommendation 1. We respectfully present the follow comments for your consideration.

It is our understanding the NYSERDA does not confirm exemptions for process loads, moreover they maintain a roll which is based in partnering with the State entity to provide feedback and vetting of the process. Since ORDA did not complete our annual energy reports, our approach for renewable-power procurement is not memorialized and therefore is not recognized in the “Draft Report”. ORDA agrees with the importance of NYSERDA partnering with State entities in the review and vetting of process load justification and calculations and shall adhere to this philosophy with the development and submission of our Annual Energy Report.

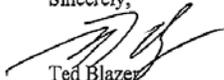
ORDA respectfully requests that the report take into consideration that ORDA fully embraced the spirit of the NYSERDA guidelines for exemptions of process loads and that the report reflect our methodology for calculation of process loads and allow ORDA the benefit of our efforts in the procurement of renewable-power.

Thank you for this opportunity to review and comment on the “Draft” report. We look forward to your comments.

*
Comment

* State Comptroller’s Comment: The final audit report has been revised to reflect information provided in ORDA’s response to the draft report.

Sincerely,



Ted Blazer
President / CEO

cc: Thomas Lukacs, Division of the Budget
Kathy Bushy, ORDA
Robert Hammond, ORDA