
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**OFFICE OF MENTAL
HEALTH**

**COMPLIANCE WITH
EXECUTIVE ORDER 111
PURCHASE OF
RENEWABLE ENERGY**

Report 2008-S-80

AUDIT OBJECTIVE

The objective of this audit was to determine whether the Office of Mental Health (OMH) 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.

AUDIT RESULTS - SUMMARY

Executive Order 111 (Order) was issued in June 2001 and requires, that by 2005, all State agencies and certain public authorities 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 supplier or through a third party provider in the form of a Renewable Energy Certificate.

We found OMH is in compliance with the Order. For 2005, OMH purchased 11 percent of its total reported electric energy consumption from renewable power sources. We also found that OMH has a plan in place to meet the 2010 target level of purchasing 20 percent of total electrical consumption from renewable power sources. In addition, we found the Department has submitted the required Annual Energy Reports for fiscal years 2006 and 2007 to the New York State Energy Research and Development Authority (NYSERDA).

Our audit report contains two recommendations related to OMH's compliance with the order. OMH officials agreed with our recommendations.

This report, dated December 4, 2008, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

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 2005 each covered agency should have sought to purchase sufficient quantities of energy from certain specified renewable technologies so that 10 percent of its 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 2010. Guidelines issued by NYSERDA in December 2004 generally require covered agencies to apply these percentages against all facilities where their power is separately metered, 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, geothermal, methane waste and fuel cells.

The Order designates the New York State Energy Research and Development Authority (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.

The mission of the Office of Mental Health (OMH) is to promote the mental health of all New Yorkers, with a particular focus on providing hope and recovery for adults with serious mental illness and children with serious emotional disturbances. It operates 26 psychiatric centers and two research centers. It serves about 500,000 individuals a year through its inpatient and outpatient programs, emergency services, community support, and residential and family care programs. OMH utilizes the services of two consultant firms to help it comply with the Order's requirements.

OMH consumed an average of 200,177 MWh of electricity during State fiscal years 2005 through 2007.

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with Order

Procurement of Renewal Energy

The Order requires State agencies and other affected entities 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.

We found that OMH met the 10 percent goal in 2005 by purchasing 11 percent of its electric energy consumption with Renewable Energy Credits for sustainably managed biomass, and that the contract for the

purchase of these credits should result in OMH meeting the 20 percent target for 2010.

In 2005, OMH signed a five year contract with Sterling Planet for the purchase of renewable energy certificates from eligible sustainably managed biomass. For 2005, the credits purchased equaled 11 percent of their electric energy consumption. The contract calls for increasing purchases of renewable energy credits so that the amount purchased would equal 18.5 percent of its projected electric energy consumption in 2009, 20 percent for 2010, and 22 percent for 2011.

Reporting Requirements

The 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 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, and whether they met the previous goal of 10 percent in 2005.

We found OMH filed the required Annual Energy Reports with NYSERDA for fiscal years 2006 and 2007.

Recommendations

1. Continue to purchase renewable energy at a level that will meet the Order.
2. Continue to comply with annual energy reporting requirements.

AUDIT SCOPE AND METHODOLOGY

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

To accomplish our audit objectives, we interviewed OMH officials and representatives of the two consultants to determine what steps were taken to comply with the Order. We compared reported renewable energy amounts for State fiscal years 2006 and 2007 to OMH's utility bills to determine the accuracy of reported renewable energy amounts. In addition, we reviewed OMH's contract for the purchase of renewable energy credits and verified the legitimacy of the Renewable Energy Certificates.

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 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 OMH officials for their review and comment. Their comments were considered in preparing this final report, and are attached in their entirety as Appendix A.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Mental Health 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, Bill Challice, Frank Patone, Mike Solomon, Todd Seeberger, Rita Verma, Raymond Louie, and Daniel Bortas.

APPENDIX A - AUDITEE RESPONSE



State of New York
David A. Paterson
Governor



Office of Mental Health
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October 20, 2008

Frank Patone, CPA
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street, 21st Floor
New York, NY 12236

Dear Mr. Patone:

The Office of Mental Health has reviewed the Office of the State Comptroller's draft audit report entitled, "Compliance With Executive Order 111 Purchase of Renewable Energy" (2008-S-80) and are pleased that OSC has found OMH to be in full compliance with the Order. This includes: 1) the purchase of "11% of total reported electric energy consumption from renewable power sources"; 2) having "a plan in place to meet the 2010 target level of purchasing 20%"; and 3) having "submitted the required Annual Energy Reports for fiscal years 2006 and 2007."

In response to OSC's two recommendations, we will continue to purchase renewable energy at a level that will meet the Order and we will continue to comply with annual energy reporting requirements. Thank you for your efforts to make recommendations which further enhance our operations.

Sincerely yours,

Bruce E. Feig
Executive Deputy Commissioner

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER



OMH26.01 (6/08)