

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 30, 2020

Mr. Anthony Annucci
Acting Commissioner
Department of Corrections and Community Supervision
State Campus Building 2
Albany, NY 12226

Re: Compliance With Executive Order
88: Energy Efficiency of State
Buildings
Report 2019-S-33

Dear Mr. Annucci:

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 conducted an audit of the Department of Corrections and Community Supervision (DOCCS) to determine if DOCCS has developed targets and plans to effectively meet its contributions toward Executive Order 88 (EO 88) and complied with EO 88 Guidelines. The audit covered the period from April 1, 2014 through October 17, 2019.

Background

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

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

annual milestones, and providing strategic and technical assistance.

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

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

Furthermore, the Guidelines require ASEs to report their energy usage to NYPA annually. ASEs must submit quarterly reports illustrating their progress toward energy savings targets. They must also develop an operations and maintenance plan that addresses, at a minimum, energy management, training, organizational structure, and the development and updating of operating procedures and preventive maintenance schedules. The Guidelines also required ASEs to submeter buildings greater than 100,000 gross square feet by December 31, 2016. Furthermore, by December 31, 2017, ASEs were also required to use a monitoring and control system capable of real-time monitoring of energy use for electricity and primary heating fuels and providing alerts to facility staff.

DOCCS has 15 employees in the Division of Facilities Planning and Development whose job duties relate to EO 88. Additionally, NYPA provides 12 project managers to monitor and manage DOCCS’ energy reduction capital projects. DOCCS and NYPA employees meet monthly to review the projects’ progress. More than 90 percent of the State’s government building square footage and energy consumption are in facilities owned and managed by six state agencies, including DOCCS. Of the ASEs, DOCCS accounts for the second largest square footage at 37.9 million square feet (19 percent of total ASE square footage), making DOCCS a major contributor to the EO 88 goal.

Results of Audit

We found that DOCCS has developed targets and plans to effectively meet its contribution toward EO 88 and has generally complied with the criteria of the Guidelines. However, DOCCS did not meet the deadline requirements for submetering buildings. We found DOCCS did not install submeters at all required buildings by December 31, 2016. Furthermore, its monitoring and control system was not operational by the December 31, 2017 deadline. However, all submetered projects were committed in 2016 – before the April 2020 deadline – and will count toward DOCCS’ energy source reduction.

Energy Audits and Retrocommissioning Studies

DOCCS has committed to implementing more energy audits than required by EO 88 and the Guidelines. DOCCS officials stated they did more than required to ensure that the overall 20 percent reduction in energy costs would be met by the State. DOCCS has 17 correctional facilities in the lowest-performing quartile that were required to receive energy audits. However, DOCCS has performed or is scheduled to perform energy audits at all of its EO 88-covered correctional facilities (51 correctional facilities) in addition to 2 other buildings (DOCCS Training Academy and New York Central Office of Special Investigations). As of October 2019, DOCCS has completed 51 energy audits and the remaining 2 energy audits are scheduled. Furthermore, DOCCS exceeded EO 88 requirements by scheduling retrocommissioning at all of its EO 88-covered facilities.

Capital Projects and Other Requirements

Although DOCCS has scheduled energy-reducing capital projects and retrocommissioning at all facilities, as of October 2019, only one project has been completed: a boilers and chillers replacement project at Downstate Correctional Facility. As of October 2019, DOCCS has achieved a 1.57 percent energy reduction. However, DOCCS has an additional 97 committed projects that will contribute toward its EO 88 energy reduction. DOCCS expects a 23.05 percent energy reduction when these 98 total projects are completed. Furthermore, DOCCS submitted its quarterly and annual reports to NYPA, as required. DOCCS also created an operations and maintenance plan in 2013, which was approved by NYPA.

Submetering

Submetering facilities provides energy usage data at the building level, allowing facility managers and decision makers to analyze designated buildings on an individual basis. Submetering also allows for a more targeted analysis of energy usage, helping ASEs identify the best opportunities for energy savings. The energy usage data is collected by NYPA's NYEnergyManager (NYEM), which allows for continuous monitoring, analysis, forecasting, and management of facility energy supply, consumption, and cost. NYEM also serves as the central data repository and management system for NYPA to track EO 88 energy usage data on a statewide basis and identify energy efficiency measures that would have been difficult to discern from broader energy data.

Within 16 correctional facilities, DOCCS has a total of 35 buildings over 100,000 gross square feet. DOCCS plans to install a total of 159 meters at the 35 buildings, of which 127 meters have been installed. However, only 6 of the 127 meters (5 percent) are connected to the NYEM system. DOCCS officials stated they did not meet the submetering deadline because they have undertaken an extensive submetering project and are installing more than required. In addition, a major design change was made after the contract was awarded, causing some delays in project delivery and meter integration.

While not all meters have been installed and most are not yet communicating data to NYEM, all submetering projects meet the committed project definition, contributing to DOCCS' expected energy use reduction. DOCCS is installing more than required: a total

of 813 submeters at 33 facilities, including submeters at 17 correctional facilities with no buildings over 100,000 square feet. However, while DOCCS is implementing more than the required energy efficiency measures, including additional retrocommissioning and submetering to meet energy reduction goals, it will not actually accomplish the full 23.05 percent energy reduction until the projects are completed, well after the April 1, 2020 deadline.

Recommendation

1. Continue implementing capital projects that reduce energy usage, as resources allow.

Audit Scope, Objectives, and Methodology

The objectives of this audit were to determine if DOCCS has developed targets and plans to effectively meet its contributions toward EO 88 and complied with EO 88 Guidelines. The audit covered the period from April 1, 2014 through October 17, 2019.

To accomplish our audit objectives, we became familiar with and evaluated the adequacy of DOCCS' internal controls as they relate to this performance audit. We interviewed officials from DOCCS and NYPA and reviewed EO 88 and the Guidelines. We obtained and examined energy audit reports, Authorization to Proceed documents, energy efficiency measures, project design reports, and capital project status review timelines. We attended project status review meetings between DOCCS and NYPA. We also reviewed invoices to confirm energy capital projects were in progress.

We requested and reviewed DOCCS' operations and maintenance plan, NYPA's BuildSmartNY annual reports for the years 2013 through 2018, and DOCCS' required quarterly and annual reports provided to NYPA during our audit period.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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.

Reporting Requirements

A draft copy of the report was provided to DOCCS officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety to the end of this report. DOCCS agrees with our recommendation and indicates steps it will take to implement the recommendation.

Within 180 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Corrections and Community Supervision 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 recommendation contained herein, and if the recommendation was not implemented, the reasons why.

Major contributors to this report were Bob Mainello, Theresa Podagrosi, Michael Cantwell, Phil Boyd, Brendan Reilly, and Lisa Whaley.

We wish to thank the management and staff of the Department of Corrections and Community Supervision for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Brian Reilly, CFE, CGFM
Audit Director

cc: Lori Young, DOCCS Acting Director of Internal Controls
Ellisa Weber, DOCCS Director Facilities Planning

Agency Comments



Corrections and Community Supervision

ANDREW M. CUOMO
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

December 27, 2019

Mr. Brian Reilly, CFE, CGFM
Audit Director
Office of the State Comptroller
State of New York
110 State Street
Albany, NY 12236

Re: Audit Draft Report - 2019-S-33, Issued 12/09/2019

Dear Mr. Reilly:

DOCCS has reviewed the Office of the State Comptroller's (OSC) above-referenced draft report, relating to Audit Report Number 2019-S-33, titled Compliance With Executive Order 88: Energy Efficiency of State Buildings. We agree with the audit findings as they are a fair and reasonable assessment of DOCCS energy program.

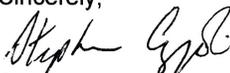
Response to Recommendations:

OSC Recommendation (1): Continue implementing capital projects that reduce energy usage, as resources allow.

DOCCS Response: We agree with this recommendation. DOCCS shall continue the energy capital projects currently underway, as well as expedite the balance of work to the maximum extent possible, as resources permit.

If there are any questions, please contact Lori Young, Acting Director, Bureau of Internal Controls, at (518) 436-7886. Thank you.

Sincerely,


Stephen G. Brandow,
Acting Deputy Commissioner

cc: Anthony J. Annucci, Acting Commissioner
Daniel F. Martuscello, III, Acting Executive Deputy Commissioner
Osbourne A. McKay, Deputy Commissioner
Stephen A. Crozzoli, Assistant Commissioner
Lori Young, Acting Director, Bureau of Internal Controls
Ellisa R. Weber, Director, Facilities Planning and Development
Keith D. Rupert, P.E., Supervisor of Technical Services