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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**STATE UNIVERSITY OF
NEW YORK**

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

Report 2008-S-76

AUDIT OBJECTIVE

The objective of this audit was to determine whether the State University of New York (SUNY) 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.

SUNY reported that it did not meet the ten percent requirement in fiscal year 2005-06. Officials told us they tried to buy both electricity and renewable energy but did not receive acceptable bids to make a purchase on time. We found SUNY took action to comply with the Order in fiscal year 2006-07, but did not procure or generate a sufficient amount of renewable electricity to fully comply with the 10 percent requirement. This occurred because some of the renewable energy SUNY reported it purchased was generated and delivered subsequent to fiscal year 2006-07, and some energy SUNY reported it generated did not comply with the Order because it was a reduction in electricity usage, not a generation of renewable electricity. SUNY developed a comprehensive written energy plan that called for an increase in the use of

renewable energy that would meet and eventually exceed the 20 percent target. SUNY also developed plans and requested funds for capital improvement initiatives for a Renewable Energy and Sustainability Program, which included increased renewable energy use. However, SUNY officials told us the plans have not been enacted due to lack of resources. Furthermore, SUNY's Energy Office officials told us that in light of recent Division of the Budget directives to fund core functions only, they are unsure if budgeted resources will be sufficient to purchase and generate enough renewable energy to reach 10 percent in the upcoming year or reach 20 percent by 2010. We found SUNY submitted its Annual Energy Reports for 2006 and 2007. However, we found several inaccuracies in the amount of renewable energy purchased and generated on the report.

Our audit report contains three recommendations. In their response to our draft report, SUNY officials agreed with our recommendations and indicated the steps they will be taking to implement them.

This report, dated November 6, 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
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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 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 comes from renewable sources. The target percentage increases to 20 percent by 2010. Guidelines issued by NYSERDA in December 2004 generally required 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, photovoltaic, 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, including the Chancellor of the State University of New York (SUNY). 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.

SUNY consists of 64 autonomous campuses (including 29 State operated campuses, 5 statutory colleges affiliated with universities, and 30 community colleges) located throughout the State. The community colleges are not required to comply with the renewable energy requirements of the Order as they are not considered an affected entity.

SUNY System Administration's Energy Office purchases renewable energy to comply with the Order. The University at Buffalo also purchases renewable energy for its campus. Certain SUNY campuses also generate renewable energy in the form of photovoltaics, fuel cells, and wind power. For example, both the University at Buffalo and Farmingdale generate power from photovoltaics and the College of Environmental Science and Forestry generates power from a fuel cell. Additionally, Morrisville and Alfred University both generate energy from wind power.

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with Order

Procurement of Renewable 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.

SUNY reported that it did not meet the 10 percent requirement on its 2006 Annual Energy Report which covered SUNY's 2005-06 fiscal year ended June 30, 2006. SUNY reported that it purchased and generated renewable energy that was 1.9 percent of its electrical consumption. According to SUNY officials, they issued formal invitations to bid to several providers of electricity from

renewable sources, and SUNY received three bids. However, two of the bids included "indicative pricing" structures, which did not provide specific stated prices, and therefore, they could not be binding. The third bid included specific prices (which could be binding), but would be available for only 72 hours. SUNY officials indicated that the proposed prices in this bid were too high, and the 72-hour window was insufficient to finalize a contract. Consequently, SUNY was unable to complete a purchase of renewable energy within the 2005-06 fiscal year.

SUNY reported that it met the 10 percent requirement on its 2007 Annual Energy Report for the SUNY fiscal year ended June 30, 2007. The Annual Energy Report shows that SUNY used 954,357 mWhs of electricity, and purchased or generated 10.3 percent of renewable energy. However, we found some of the renewable electricity purchases and generation did not comply with the Order or occurred in a different fiscal year, and as a result SUNY did not fully meet the 10 percent requirement.

SUNY reported purchasing 86,508 mWhs of renewable biomass energy on the 2007 Annual Energy Report. However, documentation from the company that generated the electricity showed that 42,094 of the 86,508 mWhs were delivered after SUNY's 2006-07 fiscal year. Therefore, the 42,904 mWhs should be reported on SUNY's 2008 Annual Energy Report. SUNY also included 9,178.5 mWhs of geothermal energy generated at Cornell University, on its 2007 Annual Energy Report. According to NYSERDA, this type of geothermal energy should not be reported as renewable energy because it is a reduction in electricity usage, not a generation of renewable electricity. We also found that SUNY did not include 12,500 mWhs of wind Renewable Energy Credits purchased by the University of Buffalo, on

the 2007 Annual Energy Report. We verified SUNY's electrical consumption for a sample of six campuses by comparing it to electrical purchases and found that they were accurate. We determined that SUNY purchased and generated 6.2 percent of its electrical consumption from renewable sources during the 2006-07 fiscal year, which was not sufficient to fully comply with the Order.

In March 2007, SUNY's Energy Task Force completed a comprehensive written plan to address various facets of its energy policy including sustainability, education, technology, economics and public policy. The Plan addressed renewable energy and called for an increase in the use of renewable energy purchased or generated on campus to 30 percent by 2014. In addition, SUNY collaborated with the New York State Commission on Higher Education in an analysis of SUNY and CUNY. The Commission's June 2008 report to the Governor called for additional resources for Greening SUNY, which included increasing the use of renewable energy, among other recommendations. Specifically, the report called for use of solar panels at all campuses, use of geothermal, wind, and fuel cells where feasible and efficient, and the purchase of off-site generated renewable electricity. SUNY's 2008-09 budget request included \$541.9 million for capital improvement initiatives for a Renewable Energy and Sustainability Program, which included increased renewable energy use. Officials told us these plans were not approved and were not carried out due to lack of funding.

Reporting

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 July 1, 2001 through June 30, 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, as well as if they met the previous goal of 10 percent in 2005.

We found SUNY submitted the 2006 and 2007 Annual Energy Reports as required. However they contained certain inaccuracies as previously discussed in this report.

Recommendations

1. Monitor the level of renewable energy purchased and generated in each fiscal year to determine if compliance is being achieved.
2. Maximize renewable energy purchases and generation each year until the 2010 compliance date to attempt to meet the target levels within fiscal constraints.
3. Complete the Annual Energy Reports accurately.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. Our audit determined if the State University of New York was in compliance with Section IV of Executive Order 111 by reporting their annual electrical energy

consumption to NYSERDA, and procuring at least 10 percent of their power from renewable sources by 2005, and increasing to 20 percent in 2010. Our audit covered the period January 1, 2005 through August 27, 2008.

To accomplish our audit objectives, we met with SUNY officials to gain an understanding of the steps taken to comply with the Order and their plans to meet the 2010 requirements. We also obtained documentation of the amounts of renewable energy purchased and generated for the 2007 Annual Energy Report. We tested the energy consumption reported on the 2007 Annual Energy Report by reviewing electrical invoices from six campuses including the University of Buffalo, the College of Environmental Science and Forestry, Oneonta, Brockport, Potsdam and Upstate Medical Center. We also visited the University of Buffalo to observe its photovoltaic array and the College of Environmental Science and Forestry to observe its fuel cell, and to obtain documentation of their output. We also obtained documentation of the output of the photovoltaic array at the Farmingdale campus.

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

We provided a draft copy of this report to SUNY officials for their review and formal comment. We considered SUNY's comments in preparing this report and have included them as Appendix A. SUNY officials agreed with our recommendations and indicated the steps they will be taking to implement them.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chancellor of the State University 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 Steve Sossei, Brian Mason, Steve Goss, Kathleen Hotaling, Kelly Evers Engel, Ben Felts, and Dave Pleeter.

James R. Van Voorst
Associate Professor
of Finance and Insurance

In accordance with Section 170 of the Executive Law, we are providing our comments on the draft audit report on the State University of New York Compliance with Executive Order 111 Requirements to Purchase Power from Renewable Sources (2008-S-76). The State University of New York (University) is committed to being more energy efficient and environmentally proactive. The University's commitment is demonstrated not only through the purchasing of renewable energy but also through our conservation efforts, education programs, and generation of energy from renewable sources (photovoltaic, fuel cells, and wind energy).

The University generally concurs with the recommendations contained in the draft report and is appreciative of the effort expended in the conduct of the audit.

Agree. The University will continue to monitor the level of renewable energy purchased and generated each fiscal year to determine whether compliance with Executive Order 111 has been achieved.

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Mr. Steven Sossei
October 24, 2008
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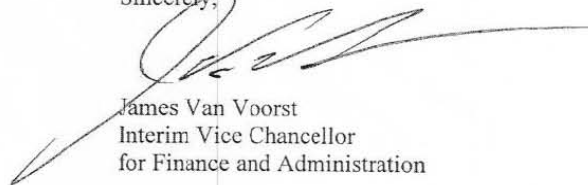
Recommendation 2: Maximize renewable energy purchases and generation each year until the 2010 compliance date to attempt to meet the target levels within fiscal constraints.

Agree. The University will continue to attempt to meet the target levels within fiscal constraints.

Recommendation 3: Complete the Annual Energy Reports accurately.

Agree. The University will strive to complete the Annual Energy Reports accurately and in accordance with applicable guidance.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Van Voorst', is written over the typed name and title.

James Van Voorst
Interim Vice Chancellor
for Finance and Administration

Copy: J. Clark, Interim Chancellor
P. Wood, Vice Chancellor for Capital Facilities