

Thomas P. DiNapoli
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 22, 2010

Brigadier General Patrick Murphy
NYS Division of Military and Naval Affairs
330 Old Niskayuna Road
Latham, NY 12110

Re: Report 2009-F-48

Dear Brigadier General Murphy:

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 have followed up on the actions taken by officials of the Division of Military and Naval Affairs (Division) to implement the recommendations contained in our audit report, *Compliance with Executive Order 111 Requirements to Purchase Power from Renewable Sources* (Report 2008-S-79).

Background, Scope and Objectives

Executive Order 111 (Order), issued by the Governor in June 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.

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 increased to 20 percent in 2010. 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. Guidelines issued by 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, photovoltaic's, sustainably managed biomass, tidal, geothermal, methane waste and fuel cells.

The Division is a State agency that functions as the headquarters for 16,627 members (as of February 2010) of the Army and Air National Guard, the New York Guard and the New York

Naval Militia. The Division performs Federal functions required to support the various military and naval forces. It supports soldiers in New York State, whether they are on emergency status as authorized by the Governor, or on a military mission as authorized by the President.

The Division owns 54 armories across the State, many of which are older garrison type buildings, and is responsible for the operation and maintenance of an additional 372 buildings including facility maintenance shops, Army air flight facilities, New York Air National Guard facilities, combined support maintenance shops, and motor vehicle storage buildings. The Division pays for the utilities for all the facilities, but is reimbursed by the National Guard Bureau for the expenses paid on facilities serving the New York Guard under an agreement with the Federal government. The Division also pays the utility bills for two United States Military owned facilities (Fort Drum and Watervliet Arsenal), and is reimbursed by the Federal government for these facilities. To assist agencies in meeting the 10 percent goal, the Office of General Services (OGS) established a planned Invitation for Bid to procure renewable energy for agencies that opted to participate. The Division participated in this contract.

Our initial audit report, which was issued on November 6, 2008, determined whether the Division was meeting the current 10 percent target for purchasing power from renewable sources, increasing to a 20 percent level by 2010, as specified in Executive Order 111. We found the Division did not meet the 10 percent target for renewable energy procurements but did have a plan in place to meet the 20 percent target by 2010. The Division attempted to purchase renewable electricity during the 2005-06 State fiscal year. However, based on our analysis of Division records, the amounts the Division requested to purchase, and actually purchased were not sufficient to meet 10 percent of its actual usage. Therefore, it was not in compliance with the Order. The Division was also required to submit Annual Energy Reports to the NYSERDA. When we began our audit in April 2008, the Division had not submitted all of the required Annual Energy Reports. The objective of our follow-up was to assess the extent of implementation as of February 25, 2010, of the four recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Division officials have implemented all four prior audit recommendations.

Follow-up Observations

Recommendation 1

Monitor the level of compliance with the Order to determine if any corrective actions are necessary to achieve full compliance.

Status - Implemented

Agency Action - In April 2009, Division staff began using its Facility Focus Data Base management system's electrical consumption data to compare electrical usage with the amount of renewable energy purchased through the Office of General Services (OGS). The Division also has written procedures that outline the steps performed to

ensure that sufficient renewable credits are identified and purchased through OGS to comply with annual Executive Order 111 requirements. For the state fiscal year ended March 31, 2010, the Executive Order requires that 20 percent of the overall electrical consumption of State office buildings owned, operated or leased come from renewable sources. As of December 2009, the Division calculated that 25 percent of its overall consumption for the State fiscal year was from renewable resources, and thus expects to meet the 2010 goal.

Recommendation 2

Compile and retain data for accurate reporting of electrical consumption on the Annual Energy Reports submitted to NYSERDA.

Status - Implemented

Agency Action - In April 2009, the Division began using its new Facility Focus Data Base management system to compile and retain energy data needed for its Annual Energy Reports submitted to NYSERDA. Information regarding the cost and usage of electricity, natural gas, fuel oil and propane for all Division facilities is entered onto the data base at Division headquarters by voucher processing staff. Division officials compiled year end electrical usage information from this data base in preparing its 2008-09 Annual Energy Reports submitted to NYSERDA.

Recommendation 3

Submit Annual Energy Reports to NYSERDA on time as required by the Order.

Status - Implemented

Agency Action - The Division submitted its Annual Energy Reports for State fiscal years 2007-08 and 2008-09 on time. The 2007-08 report was submitted on December 23, 2008, after receiving an extension till January 1, 2009 to submit the report. The 2008-09 Annual Energy Report was submitted on November 23, 2009; prior to the December 1, 2009 deadline for submission.

Recommendation 4

Review current buildings to determine if they qualify to be listed as exemptions from the Order.

Status - Implemented

Agency Action - In November 2008, the Division compiled a list of 115 buildings exempted from reporting electrical usage as part of the Division's total electrical consumption. Division officials calculated that these buildings consumed about 38 percent of total Division electrical consumption reported in state fiscal year 2006-07, and decided to apply that percentage to reduce future renewable energy purchasing requirements.

Division officials plan to recalculate this percentage reduction when there are changes in the number of buildings the Division occupies.

Major contributors to this report were Karen Bogucki and Kathleen Hotaling.

We thank the management and staff of the Division of Military and Naval Affairs for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Edward J. Durocher, CIA
Audit Manager

cc. Ms. Jennifer Winters, Division of Military and Naval Affairs
Mr. Thomas Lukacs, Division of the Budget