

# **State Auditor R. Thomas Wagner, Jr. releases the Sustainable Energy Utility, Inc. Inspection report.**

January 12, 2016

Dover, Del. – State Auditor R. Thomas Wagner, Jr.’s Office performed an inspection of the Sustainable Energy Utility, Inc. (SEU) and its relationship to the State.

All State agreements related to the SEU energy conservation measures projects ensured that the State was obligated to pay into the future without a process to measure actual energy savings or ensure that annual energy savings analyses provided by the contractors are thorough and accurate. The State also failed to include the standard funding out clause used to protect the State from over-obligating when future availability of State funds is unknown. These funding out clauses are ordinarily required by all other State contracts.

In 2011, the SEU issued energy efficiency revenue bonds that yielded \$67.4 million to finance energy conservation measures for multiple State organizations. Despite representation that the bonds were not backed by the full faith and credit of the State, the bond repayment is exclusively supported by the State’s irreversible long-term payment commitments to the SEU.

“At the conclusion of this inspection I was left asking: ‘How and why was the State’s best interest subordinated to the interest of the SEU and its partners?’” said State Auditor Wagner.

The Legislative Mall Complex project alone utilized more than \$4.8 million in SEU bond proceeds for construction and will

require more than \$8 million in repayments over a 20-year period. According to Moody's Investors Service, the State's failure to appropriate any portion of the repayments will cause insufficient funds to be deposited into the SEU's Bond Fund to pay principal and interest on the bonds when due.

The report further outlines concerns with the energy conservation measures performed, including changing light fixtures and bulbs, installing new heating and cooling units that proved to be unreliable and improperly installed, and reducing water flow on sinks through the installation of faucet aerators that were eventually removed because they proved to soak employees as they washed their hands. Ongoing monitoring of cost savings for the Legislative Mall Complex project is solely based on calculations using manufacturers' estimates of energy usage and spot measures of installed equipment. Further, the State's accounting for the energy funding and contractual payments is so complex, the State will never know whether true cost savings is occurring.

In the end, the additional costs related to these projects, including operational disruptions during and after the energy conservation measures, were absorbed by an already overburdened State budget, especially since the State's Energy Performance Contracting Act required State funding to participating organizations remain the same even if energy savings were achieved through this project.

Additional information about the SEU can be found at: [Sustainable Energy Utility, Inc. Inspection](#)

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