



Agenda Date: 1/28/09
Agenda Item: LSA

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu

CLEAN ENERGY

IN THE MATTER OF THE NEW JERSEY CLEAN
ENERGY PROGRAM – POLICIES AND PROCEDURES)
FOR THE NEW JERSEY CLEAN ENERGY PROGRAM)
FISCAL AGENT TRUST FUND)

ORDER

DOCKET NO. EO02120955

BY THE BOARD:

Background and Procedural History

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (EDECA) was signed into law. EDECA established requirements to advance energy efficiency and renewable energy in New Jersey through the societal benefits charge (SBC). N.J.S.A. 48:3-60(a)(3). EDECA further empowered the Board to initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, currently referred to as the comprehensive energy efficiency (EE) and renewable energy (RE) resource analysis. After notice, opportunity for public comment, public hearing, and consultation with the New Jersey Department of Environmental Protection (NJDEP), within eight months of initiating the proceeding and every four years thereafter, the Board would determine the appropriate level of funding for EE and Class I RE programs (now called New Jersey's Clean Energy Program or CEP) that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of February 9, 1999.

As required by EDECA, the Board of Public Utilities (BPU) initiated its first comprehensive EE and RE resource analysis proceeding in 1999. At the conclusion of this proceeding, the Board issued its initial order, dated March 9, 2001, Docket Nos. EX99050347 et al., that set funding levels for the years 2001 through 2003. By Order dated December 23, 2004, Docket No. EX04040276, the Board concluded its second comprehensive EE and RE resource analysis proceeding and set funding levels for the years 2005 through 2008. Most recently, by Order dated September 30, 2008, Docket No. EO07030203, the Board concluded its third comprehensive EE and RE resource analysis proceeding and set funding levels for the years 2009 through 2012. The Board has also issued a series of Orders approving annual program plans and budgets consistent with the comprehensive EE and RE resource analysis Orders cited above.

Through a series of Orders in 2003 and 2004, in Docket No. EO02120955, the Board established Policies and Procedures for the New Jersey Clean Energy Program Trust Fund. Since that time, the Trust Fund was transferred to the New Jersey Department of the Treasury. As such, all transactions are processed in accordance with the requirements of and recorded in the New Jersey Comprehensive Financial System (CFS).

Several other significant changes to the administrative structure of the New Jersey Clean Energy Program have occurred since the Board adopted the Policies and Procedures:

1. In conjunction with the Department of Treasury, Staff prepared requests for proposals (RFPs) for Market Manager and Program Coordinator services. The RFP for Market Manager Services was released in August 2005 and a revised RFP for program coordinator services was released in January 2007. On October 19, 2006 Honeywell International, Inc. (Honeywell) was awarded a contract to manage the residential energy efficiency programs and renewable energy programs. Contract Number 67052 and Notice of Award T-2334. TRC Energy Services (TRC) was awarded a contract to manage the commercial and industrial (C&I) energy efficiency programs. Contract Number 67053 and Notice of Award T-2334. On July 11, 2007, Applied Energy Group, Inc. (AEG) was awarded a contract to provide program coordinator services. Contract Number 68922 and Notice of Award T-2. Over the course of 2007 the Board completed the transition of the management of many of the EE and RE programs from the utilities and Staff to Honeywell and TRC and on October 15, 2007, AEG, the Program Coordinator, completed its transition and commenced operation.
2. At the time the Policies and Procedures were developed, invoices for rebates were processed on an individual project basis. Upon transition of the programs to Honeywell and TRC, rebates are now batched such that a rebate invoice is for multiple projects.
3. The Board now approves all applications for rebates of \$100,000 or more before a rebate approval letter is issued.

AEG, the Program Coordinator, provides a number of services related to the processing of invoices that did not exist at the time the Policies and Procedures were developed as follows:

AEG developed an Information Management System (IMS) for New Jersey's Clean Energy Program that processes all invoices and tracks all program expenses.

IMS verifies electronically that the prices charged by the Market Managers are consistent with the prices in the contracts issued by Treasury and that the total amount invoiced does not exceed the Board approved budgets.

AEG performs file reviews and field inspections on a sample of all projects included in an invoice for rebate payments. Sampling protocols were approved by the OCE. For example, for the CORE program, AEG reviews the files of 100% of the rebates that exceed \$250,000, 25% of the rebates between \$50,000 and \$250,000 and 10% of the projects below \$50,000. The results of AEG's file reviews and field inspections are included as support documentation for each invoice.

In the current structure, AEG provides the first level of invoice review. If AEG identifies any issue with an invoice, the invoice is rejected and returned to the Market Manager. AEG reviews and approves each invoice before it is passed on to the BPU Contract Manager for approval. The BPU Contract Manager and any further reviews constitute a second level of review. The Trust Fund resides in Treasury and is therefore subject to all of the requirements of the New

Jersey Comprehensive Financial System (CFS) and all transactions are recorded in CFS. Thus, Treasury provides a last level of review to ensure that all prices charged are consistent with Treasury approved contracts and within the budgets approved by the Board.

The existing Policies and Procedures require up to four levels of approval at the BPU level for invoices that exceed \$500,000 as follows:

Invoice in the amount of:	Must be submitted to and authorized by*:
Up to \$100,000	OCE Staff Program Administrator and Director, OCE
\$100,001 to \$500,000	All the above <i>and</i> NJBPU Chief of Staff
Greater than \$500,000	All the above <i>and</i> Board President
<i>* In the event a designated signatory is not available, any signatory from any level above may authorize the invoice in his/her absence or per delegation of authority.</i>	

As stated above, the BPU internal approvals are in addition to the review performed by the Program Coordinator before an invoice is submitted to the BPU and the approval performed by Treasury pursuant to the current Inter-departmental Agreement after all of the required BPU approvals are obtained. The Office of Clean Energy (OCE) notes that many of the rebate invoices now exceed \$1,000,000 given that rebate invoices are now for batches of projects instead of for individual projects which was the case when the Policies and Procedures were adopted. The OCE also notes that all projects over \$100,000 are now approved by the Board before a rebate approval letter is issued by Honeywell or TRC.

In addition, Treasury Circular No. 08-23-DPP addresses responsibility for the overall management and administration of a State contract. The Circular requires the Director of the Division of Purchase and Property (Treasury) to designate a State Contract Manager for each agency specific contract. The OCE has coordinated with Treasury to designate a BPU Contract Manager for each contract.

Furthermore, Treasury Circular No. 08-23-DPP identifies the specific responsibilities of the designated Contract Manager which include the following responsibilities related to billing:

- Ensuring all tasks, services, products, quality of deliverables, and timeliness of all services and deliverables are satisfied within the contract requirements;
- Reviewing all contractor billing and assuring that the contractor is paid only for services rendered and goods delivered;
- Attempting to recover any and all over-billings from the contractor.

Treasury places these responsibilities solely on the BPU Contract Manager. Any further review by agency officials exceeds this basic requirement.

The OCE has received a number of complaints regarding the amount of time it is currently taking to review and approve invoices. Cash flow has become a major issue for contractors that participate in the programs and anything that can be done to shorten the process for contractors to receive payment will help attract contractors to the program. TRC has reported that certain contractors no longer participate in the program due to the amount of time it is currently taking for them to be paid. Also, when rebate payments to customers are delayed, call center volumes increase, leading to program resources being expended to address customer complaints.

The OCE believes that the numerous changes to the administrative structure of New Jersey's Clean Energy Program that have occurred subsequent to the development of the existing Policies and Procedures offers an opportunity to streamline the invoice review process as discussed further below. In formulating this opinion and developing the revised procedures discussed below, the OCE consulted with the Program Coordinator and Treasury representatives. Therefore, the OCE recommends that the NJCEP invoice approval process be modified in two ways. First, by establishing approval requirements that distinguish invoices for rebate funding from those for program expenses and, second, by altering the approval levels both in terms of the monetary amounts that trigger movement upward in the approval structure and the signatures required. These proposed modifications are premised on the supposition that two preliminary conditions will also be met. These conditions are: (1) that all invoices are subject to the automatic checks and quality assurance reviews performed by the Program Coordinator, and described above prior to their submission to the BPU for review and approval and (2) that in accordance with New Jersey Department of Treasury requirements all invoices will be reviewed and approved by the applicable BPU Contract Manager.

Invoices for Rebate Funding

The current approval and signatory requirements for rebate invoices are based on the aggregate amount of the invoice, that is, on the total amount of all of the rebates included in the invoice. OCE proposes that the approval and signatory requirements going forward be based on the largest single rebate included in any invoice. That is, a rebate invoice in which no individual rebates exceed \$500,000 would require only one level of approval as set out in Figure 1 below, an invoice that contained one or more rebates that exceeded \$500,000 would require a second level of approval, and an invoice that contained one or more rebates that exceeded \$1,000,000 would require a third level of approval.

Once the Program Coordinator's checks and reviews are completed, invoices for rebate funding are passed to the BPU Contract Manager for energy efficiency programs or the BPU Contract Manager for renewable energy programs. The OCE recommends that from that point forward the revised approval and signatory requirements outlined in Figure 1, below, apply.

**Figure 1: Recommended Approval and Signatory Requirements
for Rebate Funding Invoices**

Rebate funding invoices including individual rebates in amounts:	Reviewed by:	Request for Payment form signed by:
≤ \$500,000.00	BPU Contract Manager	BPU Contract Manager
from \$500,000.01 to \$1,000,000.00	BPU Contract Manager and OCE Director	OCE Director
>\$1,000,000.00	BPU Contract Manager, OCE Director, and NJBPU Chief-of-Staff	NJBPU Chief-of-Staff

Invoices are electronically passed first from the Program Coordinator to the BPU, then through the BPU, and finally to Treasury for review and payment via the CEP's IMS. As noted above, when the required levels of review have been completed, the final reviewer prints and signs the IMS-generated Request for Payment (RFP) form and forwards the original to Treasury.

Invoices for Program Expenses

Approval of invoices for program expenses also begins with the completion of the Program Coordinator's checks and reviews. Thereafter, entry of the invoice into IMS is dependent upon the subject matter and/or the originator of the invoice. As shown in Figure 2, below, invoices for

Market Manager and the OCE oversight expenses related directly to energy efficiency programs are reviewed by the BPU Contract Manager for energy efficiency programs. Invoices for Market Manager and the OCE oversight expenses related directly to renewable energy programs are reviewed by the BPU Contract Manager for renewable energy programs. Table 2 below sets out the proposed approval and signatory requirements for program expense invoices less than or equal to \$500,000:

***Figure 2 – Recommended Approval and Signatory Requirements
for Program Expense Invoices Less Than or Equal to \$500,000***

Invoices for:	Reviewed by:	Request for Payment form signed by:
Energy Efficiency program expenses and OCE oversight expenses related to EE programs ≤ \$500,000	BPU Contract Manager for EE programs	BPU Contract Manager for EE programs
Renewable Energy program expenses and OCE oversight expenses related to RE programs ≤ \$500,000	BPU Contract Manager for RE programs	BPU Contract Manager for RE programs
Variable Marketing expenses ≤ \$500,000	BPU Communications Director and BPU Contract Manager	BPU Contract Manager for EE or RE programs depending on nature of invoice
Grant payments ≤ \$500,000	BPU Grant Administrator and BPU Contract Manager	BPU Contract Manager for EE or RE programs depending on nature of invoice
CleanPower Choice program ≤ \$500,000	BPU Contract Manager for the CleanPower Choice program	BPU Contract Manager for CleanPower Choice program
Applied Energy Group, Inc. ≤ \$500,000	BPU Contract Manager for the AEG contract	BPU Contract Manager for the AEG contract, currently the OCE Director

Table 3 below sets out the proposed approval and signatory requirements for program expense invoices that exceed \$500,000:

**Figure 3 – Recommended Approval and Signatory Requirements
for Program Expense Invoices Greater Than \$500,000**

Invoices for All Program Expenses in excess of \$500,000	Reviewed by:	Request for Payment form signed by:
From \$500,000.01 to \$1,000,000.00	BPU Contract Manager and OCE Director	OCE Director
>\$1,000,000.00	BPU Contract Manager, OCE Director, and NJBPU Chief-of-Staff	NJBPU Chief-of-Staff
AEG Invoices > \$500,000.01	BPU Contract Manager, OCE Director, and NJBPU Chief-of-Policy and Planning	NJBPU Chief-of-Policy and Planning ¹

Again, invoices are electronically passed first from the Program Coordinator to the BPU, then through the BPU, and finally to Treasury for review and payment via the CEP's IMS. When the required levels of review have been completed, the final reviewer prints and signs the IMS-generated RFP form and forwards the original to Treasury.

In addition, the OCE recommends that all invoices passed to the OCE by AEG now include a written statement signed by AEG's authorized personnel certifying that the automatic checks and quality assurance reviews described above have been successfully completed. In keeping with current practice, AEG will not review its own invoices. Currently, upon compilation of an invoice, AEG uploads the invoice into IMS and passes it directly to the BPU Contract Manager for energy efficiency programs for review before it goes to the BPU Contract Manager for AEG. The OCE recommends this procedure be modified so that the invoice in IMS would pass directly to the AEG BPU Contract Manager.

Discussion and Findings

The Board **FINDS** that the administrative structure of the New Jersey Clean Energy Program has changed substantially since the Board adopted the current Policies and Procedures. For example, the Program Coordinator now reviews all invoices to ensure consistency with contract prices and to verify that Board approved budgets are not exceeded. The Program Coordinator also performs file reviews and field inspections to ensure rebate levels are calculated correctly and that all program requirements have been met. In addition to the Program Coordinator review, Treasury reviews all invoices prior to payment.

Further, the Board **FINDS** that the current Policies and Procedures were developed at a time when rebate invoices were processed individually. Now, rebates for a number of projects are batched into one invoice. As a result, the cumulative amount of the invoice often exceeds \$1 million. The Board **FINDS** that the current Policies and Procedures have lead to a number of complaints.

¹ In the event of a reorganization, the request for payment and final review of AEG invoices greater than \$500,000 shall be the senior staff member to whom BPU Contract Manager reports.


Furthermore, the Board **FINDS** that the proposed modifications to the current Policies and Procedures recommended by the OCE meet and exceed the requirements set forth in Treasury Circular No. 08-23-DPP. The Board also **FINDS** that the proposed modifications were formulated with input from and in cooperation with the OCE, the Program Coordinator, and Treasury.

The Board **FINDS** that the amendments to the Policies and Procedures proposed by the OCE are appropriate given the changes that have occurred since they were initially adopted. The Board will maintain adequate oversight of program expenditures including, but not limited to: approval of all contract prices and any modifications to contracts; annual review and approval of program budgets; and review and approval of all rebates over a specified threshold prior to the issuance of rebate approval letters. The Board will also continue to receive monthly, quarterly and annual reports that show program expenses compared to budgets and actual program results compared to goals. The Board will continue to receive Treasury's monthly reports that identify each payment made from the fund.

Based on the above, the Board **HEREBY ADOPTS** the modifications to the Policies and Procedures proposed by the OCE and **AUTHORIZES** the OCE to implement the changes effective with the date this Order is signed.

DATE: 3/20/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities

