



Agenda Date: 5/21/14
Agenda Item: 1A

STATE OF NEW JERSEY
Board of Public Utilities
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AUDITS

IN THE MATTER OF THE STATE FISCAL YEAR 2007)
UNIVERSAL SERVICE FUND ADMINISTRATIVE COST) ORDER
BUDGET) DOCKET NO. EO07040255

Parties of Record:

Jose Sanchez, Department of Community Affairs
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:

This matter concerns the close out of the administrative cost budget related to expenses incurred by the Department of Community Affairs for the Universal Service Fund Program for state fiscal year 2007 (FY07).

BACKGROUND

The Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. provided that the Board establish a non-lapsing Universal Service Fund (USF) to assist low income consumers with the payment of electric and gas bills. This fund was to be established by the Board, pursuant to N.J.S.A. 48:3-60 (b), wherein the Board was to determine the level of funding, the appropriate administration, and the purposes of the programs to be funded with monies from the fund. In its July 16, 2003 Order in Docket No. EX00020091, the Board established a permanent statewide program through which funds for the USF program are collected on a uniform basis from customers of electric and natural gas public utilities operating in the State.

For the initial years of the USF program, the Board engaged the Department of Human Services (DHS) as the USF program administrator. The permanent program began in 2003 and is tied to the federal Low Income Home Energy Assistance Program (LIHEAP), which was also run by DHS at that time. The USF program was created on an expedited basis to enable eligible recipients to receive benefits as quickly as possible. In the earlier years of the USF program, there were a number of complex issues that needed to be resolved in order to get the program started. Since the inception of USF, Board Staff, the Division of Rate Counsel, DHS, the Department of Community Affairs (DCA), the Office of Information Technology (OIT) and the gas and electric utilities have worked collaboratively to fix numerous issues associated with the program's administration.

DHS continued to serve as program administrator once the permanent USF program was up and running in 2003. On July 16, 2003 the Board determined to set the annual administrative budget at \$3 million, or 10% of the initial program cost of \$30 million. The annual USF budget remained at this \$3 million level for the entire time DHS was the program administrator, and actual costs remained significantly below this budget, even while the overall cost of the program grew from \$33 million to \$113 million during that period.

DHS was the LIHEAP program administrator when the USF program began, but on August 31, 2006 DCA was named as the new LIHEAP program administrator. Subsequently, on November 22, 2006 the Board approved DCA as the new USF program administrator and directed Staff to send a letter to the State Auditor requesting that an audit be conducted of DHS' program administration as part of the close out and transition to a new program administrator.

As a result of the change in USF program administration during FY 07, both DHS and DCA incurred USF related administrative expenses during FY 07. Both DHS and DCA were directly provided appropriation funding through the state budget process and the state was to be reimbursed from the USF Trust Fund. However, the Board held its reimbursement for FY 07 pending the outcome of the audit of the DHS administrative costs charged to the program.

At its October 3, 2007 agenda meeting, the Board approved an audit of administrative costs charged by DHS as the Board approved administrator of the USF program, approved the scope of the audit and directed the Division of Audits to initiate the procurement of an audit firm from those firms under contract with the Department of Treasury to perform financial audits of state government programs at that time. The Request for Proposal was issued on February 4, 2008. Thereafter, an evaluation committee recommended that WithumSmith+Brown (WSB) be selected as the firm to perform the audit at a cost of \$29,630. The Board approved the evaluation committee's recommendation of WSB at its agenda meeting of June 11, 2008. On August 21, 2008, the Board authorized then President Fox to enter into a consulting agreement with WSB. The consulting agreement was executed on August 27, 2008 for an audit of program expenses for the entire time period that DHS was the USF program administrator, from July 1, 2003 to September 30, 2006.

On January 15, 2009, Staff met with WSB for an update on the audit process. At that time, WSB informed Staff that on the basis of its initial review of DHS' records and meetings with representatives of DHS, the information available solely from DHS would be insufficient to perform the audit. Instead, additional audit sampling and testing at the Community Based Organizations (CBOs), which process USF/LIHEAP applications, would be required. Since this additional work was beyond the scope of work provided in the original WSB bid, Staff asked WSB to provide the Board with an estimated cost of the proposed additional work.

At the Board's June 8, 2009 agenda meeting, after consultation by Staff with the Department of Treasury, Division of Purchase and Property, and after Staff negotiations with WSB, the Board approved Staff's recommendation to authorize then President Fox to execute an amended contract agreement with WSB and to release an additional \$39,520 from the USF Trust Fund to be set aside to pay WSB for additional auditing services of 509 hours for the audit of three CBO agencies. The amended agreement was fully executed on July 17, 2009. After several updates by WSB, an exit conference was held on April 5, 2011 to discuss the audit findings.

Subsequently, WSB issued a report of disclaimer of opinion due to the lack of a documented allocation plan to support the allocation of administrative expenditures between the USF

program and the LIHEAP program. WSB's report noted a number of other material weaknesses and material compliance deficiencies, as well as DHS' responses to those noted weaknesses and deficiencies.

At its August 18, 2011, agenda meeting, the Board acknowledged receipt of the WSB audit report and authorized release of the fees withheld in the amount of \$13,830 to WSB. At that time, Staff indicated it still had outstanding questions regarding the FY07 USF administrative expenses and would come back to the Board with a final recommendation once the necessary information was obtained from staff at the Department of Treasury (Treasury).

DISCUSSION

At its May 11, 2007, agenda meeting, the Board approved a FY07 administrative budget for DCA in the amount of \$3,647,225 – In the Matter of the Department of Community Affairs State Fiscal Year 2007 Universal Service Fund Administrative Cost Budget, Docket No. EO07040255, May 15, 2007 (May 15, 2007 Order). DHS indicated its budget request for FY07 would be forthcoming, but no request was received.

Treasury staff has indicated the total receivable owed for the USF administrative expenses for FY07 is \$5,601,859.28. Although the total amount exceeds the \$3,647,225 DCA administrative budget approved by the Board in its May 15, 2007 Order, the outstanding receivable reflects expenses incurred by both DCA and DHS, and the May 15, 2007 Order addressed only the DCA expenses (the only amount available at the time), and the authorized amount for DCA was not exceeded. Further, in its May 15, 2007 Order, the Board noted that DHS was responsible for the administration of the USF program during the first quarter of FY 07 but had not provided a budget for this period.

The WSB audit report included a disclaimer of opinion due to lack of a documented allocation plan to support the allocation of administrative expenses between USF and LIHEAP. DHS was responsible for the administration of both the USF and LIHEAP programs during the period of the audit. Both programs used the same administrative network and shared an application, and the costs were allocated based upon the number of cases where benefits were issued for each program. The only data available at the time represented a "snapshot" of the counts at the time the request was run by OIT in the USF/LIHEAP database.

Staff notes that the average caseload allocation factor of 38% for the USF program used by DHS, based upon informal responses to DHS from OIT, was in fact very close to the current allocation being used, which is based on an actual case count. (The cost allocation to USF in the current program year is 41%.) However, WSB expressed an audit opinion that the allocation was not sufficiently documented.

Board Staff and DCA staff are now using an allocation based upon the actual count of LIHEAP and USF cases processed by each CBO and while there are slight variations among CBOs, a 38% allocation to USF is well within the average allocation.

Staff has obtained detailed documentation from DCA to justify \$2,717,449.28 in expenses from FY07. The report of expenditures has been carefully reviewed by Staff and these expenditures appear to represent actual and appropriate USF program costs.

Therefore, Staff recommends the Board authorize the reimbursement of FY07 USF Administrative expenses to the Department of Treasury for the \$2,717,449.28 documented by

DCA. Treasury staff has indicated these expenditures represent actual amounts appearing on the state's accounting system and are still outstanding and due by the Board to Treasury.

DECISION

The Board recognizes the USF Program was put into place quickly in order to assist low-income households in paying for utility costs as soon as possible. Efforts were made to ensure the program was started expeditiously, and the full infrastructure to support the program was not completely implemented when the initial benefits were awarded. Program upgrades and refinements have been made over the years, but early program efforts focused on implementation.

Given that the Department of Community Affairs has provided specific and detailed documentation to verify these actual expenditures related to the USF Program in FY07, and that the expenditures appear to be appropriate under the USF Program, the Board **HEREBY APPROVES** of the release of \$2,717,449.28 from the USF Trust Fund to the Department of Treasury for reimbursement of these FY07 USF administrative expenses.

Both Board Staff and DCA have worked diligently to address and improve the budgetary reporting issues experienced during the earlier years of the USF program and the Board expects this level of cooperation will continue under the Memorandum of Understanding it has with DCA.

DATED: 5/21/14

BOARD OF PUBLIC UTILITIES
BY:


DIANNE SOLOMON
PRESIDENT



JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


MARYANNA HOLDEN
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


**IN THE MATTER OF THE STATE FISCAL YEAR 2007 UNIVERSAL SERVICE FUND
ADMINISTRATIVE COST BUDGET- DOCKET NO. EO07040255**

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