New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor

Department of the Treasury
Board of Public Utilities

July 1, 2003 to May 31, 2007

Richard L. Fair
State Auditor
The Honorable Jon S. Corzine  
Governor of New Jersey

The Honorable Richard J. Codey  
President of the Senate

The Honorable Joseph J. Roberts, Jr.  
Speaker of the General Assembly

Mr. Albert Porroni  
Executive Director  
Office of Legislative Services

Enclosed is our report on the audit of the Department of the Treasury, Board of Public Utilities for the period of July 1, 2003 to May 31, 2007. If you would like a personal briefing, please call me at (609) 292-3700.

Richard L. Fair  
State Auditor  
August 13, 2007
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Department of the Treasury
Board of Public Utilities

Scope

We have completed an audit of the Department of the Treasury, Board of Public Utilities (BPU) for the period July 1, 2003 to May 31, 2007. Our audit included financial activities accounted for in the state’s General Fund, the Universal Services Fund (USF), and the Retail Margin Fund (RMF). The BPU also administered the Clean Energy Fund which we have reported on separately.

Annual General Fund expenditures of the agency were $30 million. The primary responsibility of the BPU is to ensure the provision of adequate utility and regulated services at reasonable rates while effectively managing the transition from protected monopoly franchise markets for the betterment of ratepayers. Annual General Fund revenues of the agency totaled $43 million derived from assessments of the regulated utilities and cable television companies, and federal grants. In fiscal year 2006 the USF had revenues of $189 million and expenditures of $111 million, and the RMF had revenues of $67 million and expenditures of $29,000.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the agency’s programs, were reasonable, and were recorded properly in the accounting systems. We also tested for resolution of significant issues noted in our prior audit report dated July 25, 2001.

This audit was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.
In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the Office of Management and Budget, BPU orders, and policies of the agency. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of financial transactions. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and internal controls.

A statistical and nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Some sample transactions were judgmentally selected.

To ascertain the status of findings included in our prior report, we identified corrective action, if any, taken by the agency and walked through the system to determine if the corrective action was effective.

**Conclusions**

We found that the financial transactions included in our testing were related to the agency's programs, were reasonable, and were recorded properly in the accounting systems. In making this determination, we noted certain internal control weaknesses merits management's attention. We also found that the agency has resolved four of the six issues noted in our prior report. The remaining issues have been updated in our current report.
Federal Cash Management

Federal funds are not drawn down in a timely manner.

The BPU has federal grants for the State Energy Program and other energy related areas. These grants totaled $7.4 million for fiscal years 2004 through 2007. The Federal Funding Opportunity Announcement requires expenditures to be reported on the Financial Status Reports (FSR) and forwarded to the United States Department of Energy (USDOE) for approval to draw down funds. Our review disclosed that the last FSR completed and forwarded to the USDOE was for the period ending September 2004. As of April 30, 2007 expenditures of $5.6 million have been attributed to the federal grants. The BPU had drawn down only $1.7 million against these expenditures. A shortage of personnel was given as the reason for the inability to complete the requirements for the draw down of federal funds in a timely manner. As a result, the state has lost over $164,000 in interest during our audit period and had to use $3.9 million of state funds to cover these federal grant expenditures. These federal funds are available upon completion and submission of the FSR. This condition was included in our prior two reports on the BPU dated July 25, 2001 and November 8, 1996.

Recommendation

We recommend that the BPU complete the Financial Status Reports when required and that drawdowns be done in accordance with the Federal Funding Opportunity Announcement.
The Board should improve internal controls governing the assessment, collection, and recording of fines and penalties.

Internal Controls – Fines and Penalties

The BPU assesses fines and penalties for violations of established rules and regulations for cable TV, pipeline safety, gas and electric companies, telecom, and water. Total fines and penalties collected during our audit period were $12.3 million. Our review of these transactions disclosed that there were no accounting reports summarizing all fines assessed, collected, and outstanding. The BPU does not have adequate procedures and controls to identify whether all fines and penalties assessed are paid. In addition, we found that when fines and penalties are posted to the New Jersey Comprehensive Financial System (NJCFS), sufficient information is not provided to readily identify the source of the transaction. An effective system of internal controls requires written procedures to fix responsibility for the collection, accounting and processing of revenues in order to reduce the risk of errors or irregularities. Without minimal accounting records to provide an audit trail, there is increased risk that revenue items collected by the BPU will not be properly deposited and recorded on the state’s financial system. One example of an accounting issue involved an installment payment. The initial payment of penalty and interest totaling $468,000 was received in December 2004. The balance of $1.7 million was paid by September 30, 2005; however, no accounting document was prepared by the BPU to record the receipt in their revenue account. The $1.7 million remained in a Department of Treasury bank account as unidentified revenue from September 2005 to June 2007 when we brought this matter to management’s attention.

Recommendation

The Board of Public Utilities should establish written policies and procedures to provide for the proper assessment, collection, and recording of fines and penalties.
Improvements to the computer applications should be made.

Underground Facilities

The Division of Reliability and Security is responsible for managing the infrastructure safety programs, Underground Facilities Protection Act or One-Call law, and the Pipeline Safety Program. The Pipeline Safety Program monitors and inspects interstate gas pipelines for compliance with federal and state regulations. We noted that the current computer application being used is not adequate to track data pertaining to the location of pipes, the status of inspections, or the review of fines and penalties. Obtaining and using this information would enhance the effectiveness of operations.

The purpose of the One-Call law is to enhance public safety, protect the environment, minimize risks to excavators, and prevent disruption of vital services by reducing the incidence to underground facilities during excavation. The law requires excavators to call a vendor operated toll free number three days prior to excavation. The vendor contacts any company having underground facilities near the excavation and the company is then required to mark those facilities to prevent damage. N.J.S.A 48:2-88 authorizes the BPU to levied civil penalties for violations of One-Call regulations. As noted in our previous finding regarding fines and penalties, the BPU does not have adequate procedures in place to identify whether all One-Call fines and penalties assessed are properly recorded or paid. In addition, the current computer application utilized by the One-Call unit cannot provide adequate data for meaningful analysis of incidents with underground facilities.

In March 2005, in conjunction with the Office of Information Technology (OIT), the BPU began a database re-engineering project to address their computer deficiencies. The project was placed on hold by OIT in July 2006. Adequate databases will provide the BPU with more tools to assist in the overall mission of decreasing the potential damage done by strikes to underground
utilities, and assist in the accounting of One-Call fines and penalties.

**Recommendation**

The BPU should continue to work with OIT to complete the planned upgrades to its computer applications.

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**Direct Purchase Authority**

The BPU has not used proper procedures when purchasing goods from vendors. During our audit period the BPU had purchased office supplies 184 times from two vendors not listed on state contracts. Some of the purchases were marked as emergency requisitions; however, many were normal purchases and should have been purchased through a state contract. Treasury Circular Letter 06-16 states that a Direct Purchasing Authority purchase is a purchase transaction that cannot be procured through a State contract, from the State Distribution and Support Services Center, the Bureau of State Use, or the Central non-profit agency. The BPU did not take advantage of state negotiated prices and discounts through state contracts negotiated by the Purchase Bureau.

**Recommendation**

We recommend that the BPU comply with established state purchasing requirements.
August 9, 2007

Stephen M. Eells
Assistant State Auditor
Office of the State Auditor
125 South Warren Street
PO Box 067
Trenton, New Jersey 08625-0067

Re: Audit Report of Department of the Treasury, Board of Public Utilities

Dear Mr. Eells:

Thank you for your comprehensive financial audit of the Board of Public Utilities. It was a true pleasure to work with your highly professional and knowledgeable staff.

With respect to improvements recommended in the audit report, the enclosed response outlines the relevant actions that the BPU has already taken to address these issues, as well as additional actions that we are planning to implement.

I look forward to realizing the improvements recommended by your staff, thus further enhancing our ability to serve the State of New Jersey.

Sincerely,

Jeanne M. Fox
President

JMF:ebd
Enclosure
BPU Agency Response to the Report of the Office of the State Auditor

Overall, a bi-monthly analysis of the action steps outlined below will be conducted by the Board of Public Utilities' Director of the Audits Division, and reported to senior staff. This will enable the Board of Public Utilities to monitor progress on these items on an ongoing basis, and refine the implementation plans as appropriate.

Federal Cash Management

**Action:** The agency will be initiating a plan that will require a greater degree of interaction, communication and oversight between the assigned program grant manager and the Office of Budget and Fiscal. This plan of action will assist in the more timely submission of both programmatic and financial documents as required by the grant award conditions associated with each Federal Grant. This action plan will be implemented during the next fiscal quarter.

Internal Controls-Fines and Penalties

**Action:** A new written policy and procedure to fully track fines and penalties from assessment to receipt of payment has been established and a dedicated database has been created for this purpose. Implementation will begin no later than August 15, 2007, and quarterly reports will be produced and reviewed to ensure appropriate tracking.

Underground Facilities

**Action:** The Board of Public Utilities is working closely with the division directors to fine tune the technical requirements. A request for proposal on this re-engineering project will be drafted in concert with Treasury/Purchase and Property. After this proposal is awarded, the Board of Public Utilities Chief of Information Technology will develop an action plan for completing this project.

Direct Purchase Authority

**Action:**

To ensure an up-to-date stock of BPU supplies, a full inventory of the BPU supply room was completed on July 16, 2007. A new operating policy was communicated to all BPU staff on July 27th mandating that only authorized individuals (one per division, as allocated by division directors and senior staff) may sign the supply requisition forms. In addition, a database is being created to keep an up-to-date log of all supplies, so as to monitor the need to place new supply orders through an authorized state vendor.

The spending authorization form has been revised to require employees to state the contracting number. If a state contractor is not being used for the purchase, the form requires the employee to explain in detail why that is so. BPU is also preparing a written policy and will conduct a full training on this policy during next fiscal quarter.