



Public Service Commission of Wisconsin

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State Senator Robert Cowles
Co-Chair, Joint Legislative Audit Committee
118 South, State Capitol
Madison, WI
Sen.Cowles@legis.wisconsin.gov

Dear Co-Chairperson Cowles:

The Public Service Commission (Commission or PSC) herein submits to the Joint Legislative Audit Committee (Committee) a status update on implementing recommendations identified by the Legislative Audit Bureau (LAB) in Audit Report 22-11 "Certain Broadband Expansion Grant Programs" (Report).

On September 1, 2022, the LAB completed its full report on the PSC's administration of federal broadband expansion grant programs funded by both Coronavirus Aid, Relief, and Economic Security (CARES) Act funds as well as American Rescue Plan Act (ARPA) funds. In its full report, LAB recommended that by November 15, 2022, the PSC update the Committee on its efforts to implement the recommendations included in its report.

It is important to emphasize that the LAB's review did not find any instances of non-compliance, waste, or fraud in either the CARES or ARPA grant programs. This is a direct reflection of the robust internal controls the PSC programs have in place to assess and prevent any misuse of funds. Instead, the LAB's report identified opportunities to improve the PSC's existing practices, protocols, and documentation to better meet LAB's expectations. Attached the Committee will find additional information on the status of the PSC's work to implement recommendations made by the LAB in its full report.

Sincerely,

Rebecca Cameron Valcq
Chairperson

Attachment

DL: 01916524

PSC Response to Recommendations in LAB Report 22-11

BACKGROUND

The Commission, through broadband grants, invests in construction projects for internet service in areas of the state that are challenging to connect due to population density or geography. These grants improve broadband access for Wisconsin residents and businesses. The PSC has long-standing success administering the broadband expansion grant program supported with state funds in a fiscally responsible manner since 2014. Commission broadband grants awarded in the past three years alone will provide new or better internet service to more than 387,000 homes and businesses in the state. Additionally, the state-funded grants are reviewed as part of the recurring Universal Service Fund financial statement audit for which the PSC consistently has received unmodified or “clean” audit opinions.¹

In 2020, the PSC administered a grant program funded with federal CARES Act funds. The Commission awarded \$5.3 million in CARES-funded broadband expansion grants, which, due to federal rules, were required to connect locations to new or improved service by December 30, 2020. The completed projects exceeded the initial estimates of locations to be connected to broadband, as these projects provided new or improved access to service for more than 20,000 homes and businesses across the state by December 30, 2020. The PSC is currently administering a grant program funded with federal ARPA funds. The Commission awarded \$99.9 million in ARPA-funded broadband expansion grants, which are expected to reach completion by December 31, 2024.

The broadband expansion grant program process leverages the tools and processes used in Commission proceedings. Many of these processes are dictated by state law uniquely applicable to the Commission. Both the legal and technical processes employed by the Commission bring additional transparency that is not often seen in grant programs at state and federal agencies. Understanding the underlying Commission processes is necessary when considering our responses to the auditors’ recommendations.

The Commission is composed of three full-time Commissioners who convene in Open Meetings to deliberate on matters before them, including the awarding of broadband grants. As required by state law, the Open Meetings are publicly noticed and open to the public. The decisions made by Commissioners at the Open Meeting are memorialized in written Orders.

PSC staff offer their expertise and serve only in advisory roles to the Commissioners. This includes assisting the Commissioners with preparing for Open Meetings by writing staff memoranda that summarize relevant issues and documents. The PSC staff memoranda and other associated documents are available to the public via the PSC’s electronic records filing system. In the context of the grant program, PSC staff spend a significant amount of time preparing application instructions, performing outreach and information sessions with potential applicants, reviewing applications, and preparing a staff memorandum with a merit ranking of the applications for the Commissioners to consider when making award decisions. All of these efforts result in a robust and easy to understand public record that the Commissioners use to make award decisions during an Open Meeting. For the CARES and ARPA grant rounds, the

¹ 2021 Universal Service Fund Audit Report; 2019 and 2020 Universal Service Fund Audit Report

Commission's deliberations when deciding on which grants to fund could be listened to live. In future grant rounds the deliberations can be watched or listened to live, or watched on replay. After Commission action in the Open Meeting, PSC staff prepare a publicly available Order that summarizes key elements of the Open Meeting discussion and award decisions.

The PSC's specific responses to each of the LAB's recommendations are set forth below in the order presented in the report.

PSC RESPONSES TO LAB RECOMMENDATIONS

Several LAB recommendations relate to the initial phases of a grant round. These phases were already complete for both the CARES and ARPA broadband expansion grant programs at the time of the report publication and a subsequent grant round has not yet been announced. Additionally, some recommendations relate to project completion processes. The performance period for the CARES grants ended prior to the report publication. The performance period for the ARPA grants ends on December 31, 2024. Therefore, the PSC has not had an opportunity to implement the recommendations in either of these areas. The responses included below indicate how the PSC intends to address the recommendations.

RECOMMENDATION

Establish comprehensive written policies for administering broadband expansion grant programs, including provisions for publicizing grants, reviewing and awarding grants, reimbursing telecommunication providers for project costs actually paid, and overseeing the program.

PSC RESPONSE

PSC staff continue to work actively on establishing comprehensive written policies that address, among other things, provisions for publicizing grants, reviewing and awarding grants, reimbursing telecommunications providers for project costs actually paid, and overseeing the program. We will have comprehensive written policies completed by Summer 2023.

RECOMMENDATION

Consistently comply with the grant application instructions it provides to telecommunications providers.

PSC RESPONSE

Commission staff who review the applications serve only in an advisory capacity. See Wis. Admin. Code § PSC 2.03. It is the Commissioners, as the finder of fact and decision makers, who are charged with evaluating all available information and applying any relevant statutory and federal criteria to reach a well-reasoned decision. The Commissioners use their experience, technical competence, and specialized knowledge to make award decisions.

Determining whether a proposed project should be awarded a grant requires a high degree of discretion, judgment, and technical analysis. Such decisions involve intertwined legal, factual, value, and public policy determinations that cannot be captured

as flat criteria in the application instructions. For example, in the ARPA broadband expansion grant round, the PSC received many meritorious applications requesting funds far in excess of available funding. Additionally, some of the applications proposed projects in the same geographic area. The Commissioners need to find the most strategic mix of viable applications that maximizes coverage, minimizes duplication, and addresses most urgent internet needs. Depending on the mix of applications submitted, project features that meet those intersecting priorities will vary. These intersecting priorities makes the award process challenging and nuanced and requires the Commissioners to consider many factors.

The PSC will incorporate additional language in future application instructions to further explain award processes and nuances.

RECOMMENDATION

Collect and retain any scores that panel members give to grant applications or specify the precise method it will use to review the applications if it does not intend for applications to be scored.

PSC RESPONSE

In future grant rounds the PSC will specify the precise method it will use to review the applications, incorporating additional language in relevant documents, such as the application instructions, PSC staff memoranda, and the Order, to clarify this process.

RECOMMENDATION

Specify in writing its reasons for awarding grants for projects not recommended by the staff evaluation panel.

PSC RESPONSE

The Commissioners are not required to strictly abide by the PSC staff evaluation panel's merit list. As discussed above, as the finder of fact and decision maker, the Commissioners are charged with evaluating all available information and applying any relevant statutory and federal criteria to reach a well-reasoned decision.

The PSC will incorporate additional language in future Orders to further explain this process and to ensure it is adequately explaining award decisions.

RECOMMENDATION

Reimburse telecommunication providers only after they submit documents indicating the amounts they had actually paid to construct projects.

PSC RESPONSE

The PSC continues to dispute the report's characterization of the reimbursement request documents submitted by grant recipients and reviewed by PSC staff. All reimbursed amounts were properly supported and provided sufficient evidence to ensure compliance with the grant agreement, including the eligible cost definition, project scope, and budget. The documented support also provided sufficient evidence to ensure compliance with

federal requirements, including the period during which costs must be incurred². It is important to note that the LAB did not identify any instances where reimbursed costs were not federally allowable costs within the project performance period, scope, and budget. Nor did they identify any instances where the invoice amount differed from the amount paid. None of the reimbursed amounts required claw back of funds.

Most of the supporting documents obtained and reviewed for the CARES and ARPA reimbursement requests were invoices, which are a generally accepted form of documentation for grant reimbursements, and, per the grant agreement, document the actual purchase price. In addition to providing supporting documents, grant recipients were required to attest that the reimbursement requests complied with the terms of the grant agreement, were related to the projects, and were supported properly. The combination of the required attestation and invoices provide assurance that the reimbursed amounts were actually paid.

The report indicates that recipients should submit invoices that include information, such as stamped or handwritten notations, indicating the recipients actually paid the amounts listed on the invoices. The current reimbursement request attestation language provides the same level of assurance as a stamped or handwritten notation that the amounts have actually been paid.

For future grant rounds the PSC will update existing attestation language that providers are required to submit with reimbursement requests to further clarify that the documents submitted with the reimbursement requests represent amounts that were actually paid.

RECOMMENDATION

Reimburse telecommunication providers only after they report all information required by the grant agreement.

PSC RESPONSE

The report states that the PSC reimbursed one CARES grant recipient even though the recipient did not report project speeds, which was a subset of one of the many required questions on the final report. The grant recipient did submit a final report answering all other questions, including detail on the technology used to complete the project. Reporting the technology used also answered the question related to project speeds and allowed PSC staff to verify project completion in accordance with the project scope. It is important to note that the LAB did not identify any instances where the PSC reimbursed grant providers prior to the receipt of final reports. Additionally, the report noted that all grant recipient reports either contained the required information, the PSC already possessed the information, or the PSC obtained the information after the reports had been submitted.

² U.S Treasury guidance requires costs to be incurred, meaning that the amounts are obligated. See [CRF-Guidance Revision-Regarding-Cost-Incurred.pdf \(treasury.gov\)](#)

The PSC will continue to require and review project reports. The PSC will require the resubmission of reports and/or document how staff addressed any items missing from final reports prior to final grant reimbursement in a way that meets LAB's expectations.

RECOMMENDATION

Document its efforts to verify that telecommunication providers had constructed the broadband infrastructure for which they were reimbursed.

PSC RESPONSE

For all completed CARES projects, the PSC obtained final reports from all grant recipients, contacted customers in coverage areas, and contacted the Federal Communications Commission (FCC) to obtain information on certain projects. However, the report states that the PSC did not sufficiently document its monitoring activities related to customer and FCC contacts. It is important to note that the LAB did not identify concerns with the comprehensive monitoring activities undertaken by the PSC to ensure project completion, nor did the LAB identify any projects that were not completed in accordance with the project scope.

For the ongoing ARPA projects, PSC staff will use a risk-based approach to monitoring and conducting selected desk reviews and site visits, in accordance with established practices. These efforts will be in addition to required reporting for all awards prior to final reimbursement. PSC staff will ensure that all of its comprehensive monitoring activities are properly documented in a spreadsheet or additional checklist that meets LAB's expectations prior to final grant reimbursement.