# Review of Sustainable Energy and Energy Assistance Trust Funds

June 20, 2016

**Audit Team:**
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A Report by the Office of the District of Columbia Auditor
Kathleen Patterson, District of Columbia Auditor

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## Why ODCA Did This Audit

This audit was initiated in response to concerns raised by the Public Service Commission (PSC) in a letter to the D.C. Council (Council) shared with the Office of the District of Columbia Auditor (ODCA). In the June 9, 2015 letter, the PSC asked the Council to reject the transfer of funds, as proposed at the time, from the designated special purpose funds of the Sustainable Energy Trust Fund (SETF) and the Energy Assistance Trust Fund (EATF) to the unrestricted General Fund. The fund transfer, however, was subsequently approved through the passing of the FY 2016 Budget Support Act of 2015.

Based on the information gathered during the survey phase of the audit and because DOEE's contractors conduct annual external audits, we determined that a full audit of the SETF and EATF was not necessary. Instead, we conducted limited procedures to determine the SETF and EATF FY 2015 revenues and expenditures and the total amount of funds transferred to and from SETF and EATF since inception.

## What ODCA Recommends

This report makes the following four recommendations:

1. The DOEE should establish controls and a process to confirm the accuracy of the monthly payments submitted by the utility companies.
2. The DOEE should periodically audit the EATF in compliance with the requirement of the DC Code. Assessments should be reviewed to determine if they are still suitable to support the current needs of the low-income assistance programs.
3. DOEE should assess whether performance benchmarks are still relevant and reasonable and address the current objectives of the SEU energy programs.
4. DOEE should work with policymakers to reevaluate and adjust the surcharge currently assessed to District residents or fully utilize funds for purposes intended in the Clean and Affordable Energy Act of 2008 as amended.

DOEE provided thorough comments on a draft of this report that are attached at the end of this report.

**For more information regarding this report, please contact Anovia Daniels, Communications Analyst/ANC Outreach, at Anovia.Daniels@dc.gov or 202-727-3600.**

## What ODCA Found

The following are the results of the review of the activities in the Sustainable Energy Trust Fund (SETF) and Energy Assistance Trust Fund (EATF), all of which are described more fully throughout this report.

- The Clean and Affordable Energy Act of 2008 that established the SETF and EATF requires that the money deposited into both trust funds, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time. However, since the inception of these trust funds, there have been transfers of funds in and out of SETF and EATF to and from the unrestricted General Fund. These transfers were authorized by each fiscal year's enacted Budget Support Act. A net total of approximately $24.1 million has been transferred from SETF to the General Fund and $7.4 million from EATF since 2009 contrary to the stated intent of the 2008 law.
- As pointed out by the Public Service Commission, funds in the SETF and EATF are not tax dollars but surcharges added to the monthly bills and collected from District utility consumers for the specific purpose of funding clean and affordable energy initiatives.
- Based on the Annual Evaluation Report for Performance Benchmarks during FY 2014, the Sustainable Energy Utility (SEU) was able to meet five of the six performance benchmark targets outlined in the SEU contract. The SEU met three minimum performance benchmark targets and exceeded the maximum for two energy efficiency targets.
- DOEE does not have a process and controls in place to verify the accuracy of the funds provided by the utility companies.

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# Background

The Sustainable Energy Trust Fund (SETF) and the Energy Assistance Trust Fund (EATF) were established by the Clean and Affordable Energy Act of 2008 (CAEA), as amended, and codified in Title 8, Chapter 17N of the D.C. Code.

The funds in the SETF shall only be used to fund:

1. The Sustainable Energy Utility (SEU) contract in the amount of at least $20 million annually;
2. The administration of the SEU contract and the development of a comprehensive energy plan by DDOE[1], on an annual basis, equal to 10 percent of the authorized contract level in that fiscal year;
3. An independent review of the performance of the SEU in the amount of $100,000 annually, beginning in fiscal year 2012;
4. The activities of the SEU Advisory Board in the amount of $9,800 annually;
5. The implementation of the EnergyStar(R) benchmarking program; and
6. The Low Income Home Energy Assistance Program, in the amount of no more than $ 1.5 million in Fiscal Year 2016.[2]

The SEU contract is an agreement between the Department of Energy and Environment (DOEE) and the Vermont Energy Investment Corporation, a non-profit organization formed in 1986 that has provided energy efficiency services in Vermont and other states, according to contract documents provided to the D.C. Council.[3] Under the agreement, the SEU shall conduct programs in the District to reduce per-capita energy consumption, increase renewable energy-generating capacity, reduce the growth of peak electricity demand, improve the energy efficiency of low-income housing, reduce the growth of the energy demand of the largest energy users, and increase the number of green-collar jobs in the District.

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[1] In August 2015 DC Mayor Muriel Bowser re-designated the District Department of the Environment (DDOE) as the Department of Energy and Environment (DOEE).

[2] See D.C. Code § 8-1774.10. In fiscal year 2016, the SETF was also used to fund the Low Income Home Energy Assistance Program, in the amount of no more than $ 1.5 million, however the scope of our audit did not cover FY 2016.

[3] The Vermont Energy Investment Corporation is the prime contractor of the Sustainable Energy Partnership (SEP). The SEP is an eight-entity team, referred to as the Sustainable Energy Utility (SEU), contracted to administer sustainable energy programs in the District of Columbia.

The EATF on the other hand was established solely to fund the existing low-income program in the amount of $2.33 million annually.[4] DOEE assists eligible low-income households in the District with energy costs associated with heating and cooling through the Low Income Home Energy Assistance Program (LIHEAP). Eligible households may receive assistance toward their energy bill, between $250 and $1,500, as a one-time Regular Energy Assistance benefit. Emergency Energy Assistance is also available to low-income District residents who are disconnected from electric or gas service, or have a depleted supply of home heating oil.

The trust funds are funded by an assessment upon the natural gas and electric companies, namely Washington Gas and the Potomac Electric Power Company or Pepco. The assessment is collected monthly on the sale of every kilowatt hour and therm in the District, with the exception of those sold to residents participating in the Residential Essential Service or Residential Aid Discount programs.[5]

During fiscal year (FY) 2015, the SETF assessment was $.014 per therm on the sale of natural gas and $.0015 per-kilowatt hour on the sale of electricity; and the EATF assessment was $.0051 per therm on the sale of natural gas and $.0000607 per kilowatt hour on the sale of electricity.[6]

D.C. law does not prohibit utility companies from recovering these assessments as a surcharge on the utility bills of customers in the District.[7] Hence, the District residents ultimately bear the cost of the energy programs that are funded by these trust funds.

In March 2016, Councilmembers introduced the "Renewable Portfolio Standard Expansion Amendment Act of 2016."[8] The Act proposes that funds be allocated for the Solar for All program and funding for this initiative be provided by the Sustainable Energy Trust Fund. Bill 21-650 is currently under review by the full Council and is expected to be approved shortly.

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[4] See D.C. Code § 8-1774.11(c).
[5] See D.C. Code § 8-1774.10(b) and § 8-1774.11(b).
[6] Ibid.
[7] See D.C. Code § 8-1774.10(b)(5) and § 8-1774.11(b)(5).
[8] Bill 21-650. Introduced March 1, 2016.

# Objectives, Scope and Methodology

## Objectives and Methodology

This audit was initiated in response to concerns raised by the Public Service Commission (PSC) in a letter to the D.C. Council (Council) shared with the Office of the District of Columbia Auditor (ODCA). In the June 9, 2015 letter, the PSC asked the Council to reject the transfer of funds, as proposed at the time, from the designated special purpose funds of the Sustainable Energy Trust Fund (SETF) and the Energy Assistance Trust Fund (EATF) to the unrestricted General Fund. The fund transfer, however, was subsequently approved through the passing of the FY 2016 Budget Support Act of 2015.[9]

The preliminary objective of the audit was to review the deposits to and disbursements from the SETF and the EATF to ensure that funds are being used as intended. As noted in the PSC letter, the designated special purpose funds are collected as surcharges added to the monthly bills of the District commercial and residential customers of Potomac Electric Power Company and Washington Gas Light Company. Customers have been told by the Council, the Department of Energy and Environment (DOEE) and others that the SETF surcharge is used to fund energy efficiency and renewable energy incentive programs that support the District's sustainability goals.

During the survey phase of the audit, we reviewed financial schedules detailing revenues, expenditures and transfers to and from the energy trust funds; local budget legislation; District law; contracts; policies and procedures; audit reports; and evaluation, measurement and verification reports; and we interviewed DOEE staff.

We also gained an understanding of pertinent internal controls related to the DOEE's administration of the SETF and EATF, particularly the SETF-funded Sustainable Energy Utility (SEU) contract and the EATF-funded Low Income Home Energy Assistance Program (LIHEAP).

During this process, we learned that DOEE has contracted with external auditors to conduct annual audits of the SEU expenditures and compliance with contractual requirements. In addition, during FY 2014, DOEE hired independent contractors to conduct an evaluation, measurement, and verification (EM&V) of the portfolio of energy efficiency and renewable energy programs and initiatives offered in the District of Columbia.

[9] Bill 21-158; Act 21-148; D.C. Law 21-36. Effective October 22, 2015.

Based on the information gathered during the survey phase of the audit and because DOEE's contractors conduct annual external audits, we determined that a full audit of the SETF and EATF was not necessary. Instead, we conducted limited procedures to determine the SETF and EATF FY 2015 revenues and expenditures and the total amount of funds transferred to and from SETF and EATF since inception.

## Scope

The audit period covered FY 2015 (October 1, 2014 through September 30, 2015); our review of the transfers to and from the SETF and EATF covered the period since inception of the trust funds (FY 2009) through FY 2015.

# Results

### SETF and EATF Revenues

In fiscal year (FY) 2015, the Department of Energy and Environment (DOEE) collected $21 million in the Sustainable Energy Trust Fund (SETF) revenue and $2.3 million in the Energy Assistance Trust Fund (EATF) revenue, inclusive of interest income.

We reviewed a sample of monthly revenues remitted by Pepco and Washington Gas to DOEE during FY 2015 and determined that DOEE does not have controls in place to verify the accuracy of the funds provided by the utility companies. To ensure that funds are remitted to the District in compliance with the DC Code, DOEE should establish controls to confirm the accuracy of the payments submitted by the utility companies on a monthly basis.

Figure 1 below shows a summary of the revenues deposited to the energy trust funds during FY 2015.

**Figure 1**

**Total FY 2015 SETF and EATF Revenues**

| Source of Revenue | SETF Revenue | EATF Revenue |
|---|---|---|
| Potomac Electric Power Co. | $16,432,114 | $1,611,167 |
| Washington Gas Light Co. | $4,393,818 | $664,774 |
| Interest Income | $129,937 | $10,630 |
| **Total FY 2015 Revenues** | **$20,955,869** | **$2,286,571** |

The revenues noted in Figure 1 are categorized based on program information documented in the System of Accounting and Reporting (SOAR), as reported by DOEE. The Auditor did not audit the amounts noted in Figure 1.

### SETF and EATF Expenditures

During FY 2015, approximately $21.5 million in expenditures were charged to the SETF and $2.1 million to the EATF.

Our review of a sample of FY 2015 expenditures charged to the trust funds determined that DOEE appears to have sufficient internal controls over the processing of expenditures, each of which were accounted for and properly documented.

Figure 2, below, shows the expenditures charged to the SETF in FY 2015.

**Figure 2**

### Total FY 2015 SETF Expenditures

| Expenditure Type | SETF Expenditure Amount |
|---|---|
| SEU Contract | $18,606,203 |
| SEU Contract - EM&V | $1,203,425 |
| SEU Contract Administration | $1,669,198 |
| Independent review of the SEU performance | $40,740 |
| **Total FY 2015 Expenditures** | **$21,519,566**[10] |

The expenditures noted in Figure 2 are categorized based on program information documented in the System of Accounting and Reporting (SOAR), as reported by DOEE. The Auditor did not audit the amounts noted in Figure 2.

For the EATF, D.C. Official Code § 8-1774.11 states that the trust fund shall be used solely to fund the existing low-income program in the amount of $2.33 million annually. During FY 2015, DOEE spent approximately $1.9 million to fund the low-income program LIHEAP, and approximately $200,000 on administration costs related to low-income programs.

Figure 3, below, shows the expenditures charged to the EATF in FY2015.

**Figure 3**

### Total FY 2015 EATF Expenditures

| Program Funded | EATF Expenditure Amount |
|---|---|
| LIHEAP Expansion & Energy Education | $1,858,686 |
| Administration of the EATF | $177,692 |
| Administration of the Residential Aid Discount (RAD) Program | $22,499 |
| Administration of Residential Essential Services (RES) Program | $13,423 |
| **Total FY 2015 Expenditures** | **$2,072,300** |

The expenditures noted in Figure 3 are categorized based on program information documented in the System of Accounting and Reporting (SOAR), as reported by DOEE. The Auditor did not audit the amounts noted in Figure 3.

## Transfer of Funds – In and Out of SETF and EATF

D.C. law requires that the money deposited into both the SETF and EATF, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or

[10] The Total FY 2015 Expenditure amount presented in Figure 2 excludes prior year reversals that total $3,440.

at any other time.[11] The law further states that if at the beginning of a fiscal year, the SETF fund balance exceeds the projected annual cost of all programs in that fiscal year by at least $10 million, the Fiscal Agent shall suspend payment and collection of the SETF assessment, until such excess is estimated by the Fiscal Agent to be $5 million.[12]

However, since the inception of the energy trust funds, the D.C. Council has authorized transfers of funds in and out of SETF and EATF. These transfers are not revenue deposits and disbursements of expenditures. Instead, these transfers are to and from the General Fund and were authorized by each fiscal year's enacted Budget Support Act.

A net total of approximately $24.1 million has been transferred from SETF to the General Fund and $7.4 million from EATF since 2009 contrary to the stated intent of the 2008 law. These are inclusive of the amounts transferred in accordance with the recent FY 2016 Budget Support Act of 2015 that designated the transfer to the District General Fund of $3.5 million from SETF and $ 0.5 million from EATF.

The recent FY 2016 Budget Support Act (BSA) of 2015, and similar BSAs in the past seven years, had mandated that the Chief Financial Officer transfer funds to the General Fund notwithstanding any provision of law limiting the use of these specially designated funds. Actions taken in the Fiscal Year 2012 Budget Support Act of 2011 is illustrative. The Budget Support Act consists of policy actions approved each year to support the revenue and expenditure decisions made by the Mayor and Council. That year in a provision titled "special purpose revenue" the Council directed the Chief Financial Officer to "undesignate" $9.6 million in the Sustainable Energy Trust Fund for transfer to the General Fund, and then deposit $6.8 million in local funds back into the SETF at the start of the following fiscal year – essentially borrowing available funds and then paying them back, but not in the full amount.

Figure 4 (next page) shows the transfer of funds between SETF and the General Fund.

[11] See D.C. Code § 8-1774.10(a)(2) and D.C. Code § 8-1774.11(a)(2).
[12] See D.C. Code § 8-1774.10(d).

**Figure 4**

**Transfer of Funds – In and Out of SETF since inception**

| Fiscal Year | Amount Transferred from SETF to General Fund | Amount Transferred to SETF from General Fund | Relevant Budget Support Acts and Amendments Supporting Transfer of Funds |
|---|---|---|---|
| FY 2009 | $2,545,891 | | FY 2010 BSA of 2009 |
| FY 2010 | $786,493 | | FY 2010 BSA of 2009 |
| FY 2010 | $905,527 | | FY 2010 Balanced Budget Support Emergency Act of 2010 |
| FY 2011 | $15,664,026 | | FY 2011 BSA of 2010 |
| FY 2011 | $9,271,753 | | FY 2012 BSA of 2011 |
| FY 2012 | $1,401,187 | | FY 2011 Supplemental Budget Support Emergency Act of 2010 |
| FY 2012 | | $6,833,843 | FY 2012 BSA of 2011 |
| FY 2012 | | $3,100,000 | FY 2013 BSA of 2012 |
| FY 2015 | $3,500,000 | | FY 2016 BSA of 2015 |
| **Total** | **$34,074,877** | **$9,933,843** | |

Figure 5, below, shows the transfer of funds between EATF and the General Fund.

**Figure 5**

**Transfer of Funds – In and Out of EATF since inception**

| Fiscal Year | Amount Transferred from EATF to General Fund | Amount Transferred to EATF from General Fund | Relevant Budget Support Acts and Amendments Supporting Transfer of Funds |
|---|---|---|---|
| FY 2010 | $311,949 | | FY 2010 Balanced Budget Support Emergency Act of 2010 |
| FY 2011 | $6,617,280 | | FY 2011 BSA of 2010<br>FY 2012 BSA of 2011 |
| FY 2012 | $41,146 | | FY 2011 Supplemental Budget Support Emergency Act of 2010 |
| FY 2012 | | $20,999 | FY 2013 BSA of 2012 |
| FY 2015 | $500,000 | | FY 2016 BSA of 2015 |
| **Total** | **$7,470,375** | **$20,999** | |

While the fund transfers were approved during the annual budget process, it should be noted as mentioned by the PSC, the funds in the SETF and EATF were not tax dollars but surcharges added to the monthly bills and collected from District utility consumers for the specific purpose of funding clean and affordable energy initiatives.

Despite the transfers from the trust funds, DOEE stated that there was sufficient funding available to fund the SETF and EATF energy efficiency and renewable energy programs. If this is the case, DOEE should either work with policymakers to ensure there are steps in place to reevaluate the surcharge currently assessed to District residents, or take steps to fully fund the SETF and EATF initiatives as outlined in the Clean and Affordable Energy Act of 2008, as amended, and as intended with the fees collected from the District residents.

In the Council's current debate over the FY 2017 budget, Committee on Transportation and the Environment Chair Mary Cheh (also the principal author of the 2008 legislation) shared concern with the movement of funds out of the SETF and EATF. Referring to the transfer a year earlier, the committee's FY 2017 budget report notes, "this $5 million sweep of the SETF fund balance has resulted in a situation in which the Sustainable Energy Utility contract is in serious danger of being underfunded in 2-3 years." The Committee also criticized underfunding of the LIHEAP program, noting the potential need for "another sustainable source of funds" for the energy assistance program, including a small increase in the EATF fee.

Based on a the Annual Evaluation Report for Performance Benchmarks during FY 2014, the SEU was able to meet five of the six performance benchmark targets outlined in the SEU Contract. It met the minimum performance benchmark targets for:

a. The reduction of per-capita energy consumption in electricity and the reduction of per-capita energy consumption in natural gas;
b. The reduction in growth of peak demand; and
c. The increase in the number of green-collar jobs.

The SEU also exceeded the maximum performance benchmark targets for:

a. The improvement of energy efficiency in low-income housing; and
b. The reduction of growth in energy demand of the largest energy users.

The DC Sustainable Energy Utility, however, did not achieve the performance benchmark target to increase renewable energy generating capacity.

In addition, a Performance Benchmark Assessment and Recommendations Report issued by BDA Global on September 30, 2015 determined that while the current four incentivized and two tracking benchmarks are useable, all stakeholders would benefit from changes in the measurement of these standards and the provision of pertinent incentives. The report proposed new performance requirements and a compensation scheme that should provide DOEE with a framework for the use of multi-year benchmarks.

The above contractors' evaluation, measurement and verification should help DOEE assess whether the benchmarks that guide the performance of the SEU are still relevant, reasonable and currently address the objectives of the SEU energy programs. Further, given that only two out of six benchmarks exceeded the maximum performance benchmark, it would also be beneficial for DOEE to revisit these metrics and ascertain if additional funding would help attain optimum results for the remaining benchmarks.

# Recommendations

Based on our review of the Energy Assistance Trust Fund (EATF) and Sustainable Energy Trust Fund (SETF) trust funds, we developed the following recommendations.

**Recommendations:**

1. The DOEE should establish controls and a process to confirm the accuracy of the monthly payments submitted by the utility companies.
2. The DOEE should periodically audit the EATF in compliance with the requirement of the DC Code. Assessments should be reviewed to determine if they are still suitable to support the current needs of the low-income assistance programs.
3. DOEE should assess whether performance benchmarks are still relevant and reasonable and address the current objectives of the SEU energy programs.
4. DOEE should work with policymakers to reevaluate and adjust the surcharge currently assessed to District residents or fully utilize funds for purposes intended in the Clean and Affordable Energy Act of 2008 as amended.

# Conclusion

The Sustainable Energy Trust Fund (SETF) and the Energy Assistance Trust Fund (EATF) were established by the Clean and Affordable Energy Act of 2008 (CAEA). The SETF was established to fund energy efficiency and renewable energy incentive programs that support the District's sustainability goals and the EATF was established solely to fund the existing low-income program.

D.C. law requires that the money deposited into both the SETF and EATF, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time. However, since the inception of the energy trust funds, the D.C. Council has authorized transfers of funds in and out of SETF and EATF. Since 2009, a net total of approximately $24.1 million has been transferred from SETF and $7.4 million from EATF to the General Fund.

We conducted limited procedures to determine the SETF and EATF FY 2015 revenues and expenditures and the total amount of funds transferred to and from SETF and EATF since inception. Based on the limited review conducted, ODCA provided four recommendations to DOEE management to ensure the accuracy of the funds received from utility companies, determine the reasonableness of the assessments issued to fund the EATF, assess SEU performance benchmarks and to ensure that the funds collected for SETF and EATF are used as intended.

# Agency Comments

On June 2, 2016, the Office of the District of Columbia Auditor (ODCA) sent a draft copy of this report to the Director of the Department of Energy and Environment (DOEE) for review and written comment. DOEE provided written comments dated June 7, 2016. The comments are shown below in their entirety.

June 7, 2016

Kathleen Patterson
District of Columbia Auditor
Office of the District of Columbia Auditor
717 14th Street, NW, Suite 900
Washington, DC 20005

**Subject: DOEE comments regarding ODCA draft report titled "Review of Sustainable Energy and Energy Assistance Trust Funds"**

Dear Ms. Patterson:

The Department of Energy & Environment (DOEE) provides the enclosed comments in response to the revised version of the Office of the District of Columbia Auditor's (ODCA) draft report titled "Review of Sustainable Energy and Energy Assistance Trust Funds." DOEE thanks ODCA for the collaboration between the agencies during the audit process, and we appreciate the opportunity to provide comments prior to the release of the final report.

Should you have any questions, please contact me or Adriana Hochberg, DOEE Chief of Staff, at (202) 535-1983.

Sincerely,

Tommy Wells

Tommy Wells
Director

Enclosure

## DOEE Response to ODCA Audit Report's Recommendations

1. The DOEE should establish controls and a process to confirm the accuracy of the monthly payments submitted by the utility companies.

   **DOEE Response**

   DOEE disagrees. DOEE has neither the legal authority nor ready access to the data to implement this recommendation. However, the utility companies are required to sign as to the accuracy of the monthly payments. Any misstatements and consequent underpayments on those submissions constitute a violation of the District's False Claims Act. DOEE suggests the following alternative recommendation:

   **Alternative recommendation**

   DOEE should conduct a monthly review of publicly available sales data filed by each utility company to determine the accuracy of the revenue received in the SETF and EATF. DOEE should reconcile the available sales data reported by the utility companies against the revenue received in the SETF and EATF on a monthly basis.

2. The DOEE should periodically audit the EATF in compliance with the requirement of the DC Code. Assessments should be reviewed to determine if they are still suitable to support the current needs of the low-income assistance programs.

   **DOEE Response**

   DOEE agrees in part. The audit requirement is a new obligation under the law. Section 2102(b)(2) of the Residential Essential Service Subsidy Stabilization Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-155; D.C. Official Code § 8-1774.11(c)), amended the Clean and Affordable Energy Act of 2008 to require the EATF to be audited every 2 years to "ensure that the assessment imposed pursuant to subsection (b)(1)... is appropriately set to fund the low-income program funded by the EATF." As the law was not effective until February 26, 2015, DOEE will evaluate the program before the statutory deadline of February 26, 2017.

3. DOEE should assess whether performance benchmarks are still relevant, reasonable and address the current objectives of the SEU energy programs.

   **DOEE Response**

   DOEE believes it is currently in compliance with this recommendation. DOEE, in collaboration with the DCSEU, the SEU Advisory Board, the DC Council, and private consultants, routinely evaluates the reasonableness of the performance benchmarks specified for the DCSEU contract. Examples of the assessments recently undertaken are as follows:

   - A Performance Benchmark Assessment and Recommendations Report in FY15 by BDA Global, an independent consultant retained by DOEE;

- An Independent Review and Update of The District of Columbia SEU's Annual Performance Benchmarks in FY 13 by Jerome S. Paige & Associates, LLC, an independent consultant retained by DOEE;
- The SEU Advisory Board Annual Report, which provides recommendations regarding the performance benchmarks; and
- DC Council initiated amendments to the performance benchmark provisions of the Clean and Affordable Energy Act of 2008.

4. DOEE should work with policymakers to reevaluate the surcharge currently assessed to District residents or fully utilize funds for purposes intended in the Clean and Affordable Energy Act of 2008 as amended.

**DOEE Response**

DOEE appreciates and recognizes the concerns raised by ODCA staff, but disagrees with the conclusion because the barrier to fully expend the funds was just recently removed. This issue was addressed in section 6062 of the Clean and Affordable Energy Amendment Act of 2014 (D.C. Law 20-155; D.C. Official Code § 8-1774.10) which authorized DOEE to spend *at least* $20M per year on a multi-year DCSEU contract. Prior to this amendment to the law, DOEE was not authorized to spend more than $20M annually on the DCSEU contract, and therefore could not spend down the SETF fund balance. This significant change in the statutorily mandated funding level for the DCSEU contract not only reduces the possibility of an accumulated fund balance but also allows DOEE to allocate any excess funds towards critical program expenditures.

# Auditor's Response to Agency Comments

The Office of the District of Columbia Auditor (ODCA) thanks the Department of Energy and Environment (DOEE) for its written comments on a draft of this report. We appreciate the detailed and constructive response as well as the description of DOEE's plans to act on some of the recommendations.

As the main goal of the first recommendation is to ensure the accuracy of the monthly payments submitted by the utility companies, ODCA agrees with the alternative recommendation proposed by DOEE and acknowledges its plan to periodically determine the accuracy of revenue remittance to the SETF and EATF. DOEE agrees to conduct a monthly review of publicly available sales data filed by each utility company and reconcile available sales data against the revenue received in the SETF and EATF on a monthly basis.

DOEE partially concurred with ODCA's recommendation that "DOEE should periodically audit the EATF in compliance with the requirement of the DC Code. Assessments should be reviewed to determine if they are still suitable to support the current needs of the low-income assistance programs." ODCA acknowledges that the audit requirement is a new obligation under the amended D.C. Official Code § 8-1774.11 (c) which became effective February 26, 2015 and that DOEE will evaluate the program before the statutory deadline of February 26, 2017.

For the recommendation that "DOEE should assess whether performance benchmarks are still relevant, reasonable and address the current objectives of the SEU energy programs," ODCA encourages DOEE to continue to work with DCSEU, the SEU Advisory Board, the DC Council, and private consultants to evaluate performance benchmarks and to take action to make necessary adjustments to benchmarks based on the recommendations provided.

In reference to the fourth recommendation, ODCA appreciates DOEE's commitment to fully utilize funds for purposes intended in the Clean and Affordable Energy Act of 2008 as amended.

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