



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD E. CONSTABLE, III
Commissioner

February 27, 2013

Honorable Jeffery Jones, Mayor
City of Paterson
155 Market Street
Paterson, New Jersey 07505

Dear Mayor Jones:

The Division of Local Government Services has concluded its review of Fiscal Year 2013 applications for Transitional Aid to Localities. You are advised that Paterson has been awarded \$22.4 million and may move forward with appropriate budget amendments and adoption of a budget reflecting same.

We are confident that the City of Paterson, with the technical assistance of the Division of Local Government Services, can balance its budget with this level of funding, while including a levy increase below the State levy cap and less than proposed in the introduced budget.

While the amount being awarded is a slight increase over the amount awarded last year, it remains a lesser amount than awarded in earlier years. The amount awarded acknowledges the following substantial initiatives of the City in the past two years to reduce its reliance on discretionary funding derived from taxpayers throughout the State: increasing its own sources of revenues from its levy, sewer fees, and various other user fees; substantial personnel cost reductions; and an effort to more aggressively collect court revenues.

While the City has made substantial progress in efforts to reduce their reliance on Transitional Aid, the Division remains frustrated with certain expenditures of funds and the City's failure to move forward with a revaluation necessary to more fairly allocate tax burdens based on up-to-date market values. To address these concerns, the Division will be: (1) withholding some 2013 Transitional Aid or, in the alternative, requiring a pay back of a portion of the 2013 award in the City's 2014 budget; and (2) developing additional conditions on the receipt of aid.

The amount of funds being withheld, or that will be required to be paid back, will include:

- Expenditures made without required Division approval in furtherance of travel and lodging by certain officials and not repaid to the City as recommended by the Division; and
- Expenditures made in 2013 in furtherance of unsustainable recreation program increases that had not received prior Division approval; and



- Expenditures made without required Division approval for food expenses.

Provisions being developed for inclusion in the Memorandum of Understanding conditioning the receipt of aid will include:

- A requirement of the City Council to take all necessary action, including enacting a special emergency appropriation prior to June 30, 2013, to allow for a revaluation;
- A requirement that the City Council enact an ordinance no later than June 30, 2013 requiring third party applicants for events that require city expenditures, to pay a fee to cover a reasonable portion of the costs of their events;
- A requirement that the City provide an analysis of the cost of their health care insurance as compared to the cost of the State Health Benefits Plan, together with a plan to take all steps necessary to enroll in the State Health Benefits Plan should the analysis demonstrate the State Health Benefits Plan is a less expensive option;
- A requirement that the City Administration meet with the Division no later than July 31, 2013 to discuss an assessment of legal services with proposals that address: whether to replace or retain the current in-house and vendor services; recommendations to limit the costs of litigation by and among city officials; and recommendations on the strategy of litigating or settling claims filed against the City.
- A requirement that the Mayor or Council, as appropriate, shall have their pay reduced by up to 25% if the Division determines in writing that the Mayor or Council purposefully, or with reckless indifference, take action after July 1, 2013 to incur expenses in violation of the terms of the MOU or any conditions imposed with respect thereto. This provision shall apply to incurring lodging or food expenses without Division approval; incurring overtime expenses among management; etc. The purpose of this provision (which will contain a provision for appeal to the Local Finance Board) will be to ensure that sanctions for future willful or reckless noncompliance are visited upon those responsible for them, and not the taxpayers of New Jersey or Paterson.

A Memorandum of Understanding more clearly setting forth the precise withholdings or pay back requirements, and additional conditions on the receipt of aid, will be forwarded to the City as soon as possible.

As a final matter, the Division will not comment further, or engage in further action, with respect to overtime payments made in prior years, other than as set forth herein. As has been noted in prior communications, the Division found certain management overtime payments in prior years to be inappropriate on a number of levels. As recommended by the Division, the Mayor refrained from ever cashing such payments, recognizing that overtime would be inappropriate for his position. And to his credit, he put in place policies to end overtime for management which had been taking place for many years prior to his administration assuming office. This Division, the City administration, and council have all sought repayment concerning some level of overtime payments to other management employees. Some employees made repayment and others did not, claiming employer contractual obligations. The Division is in no position to micromanage litigation efforts with respect to repayments being sought by the City, and will not attempt to do so. The City, in its efforts, should be mindful of the strength, or lack

of strength, of any contractual arguments made by recipients of overtime who have not made repayment. The City should also be cognizant of the costs of litigation. The Division intends, as part of the FY 2013 aid withholdings or repayment requirements, to include a \$20,000 overtime assessment.

The Division looks forward to continuing our mutual efforts to improve the structural integrity of Paterson's budget on behalf of the taxpayers in Paterson and through the State. If you should have any questions or concerns, please do not hesitate to contact my office at 609-292-6613.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Neff". The signature is stylized with a large, sweeping initial "T" and a cursive "Neff".

Thomas H. Neff, Director
Division of Local Government Services

c: Richard E. Constable, III Commissioner
Erin Knoedler, State Monitor