



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 23-2

June 14, 2023

Petition of the State 911 Department for Approval of Fiscal Year (“FY”) 2023 Expenditures, FY2024 Development Grant Amount, Telecommunicator Emergency Response Taskforce Grant Guidelines, and Massachusetts Equipment Distribution Program Request for Response

FINAL ORDER

APPEARANCES:

Frank Pozniak, Executive Director
Dennis Kirwan, General Counsel
State 911 Department
151 Campanelli Drive, Suite A
Middleborough, MA 02346
FOR: STATE 911 DEPARTMENT
Petitioner

Andrea Joy Campbell, Attorney General
By Jonathan Dinerstein
Assistant Attorney General
Office of the Attorney General
Office of Ratepayer Advocacy
One Ashburton Place, 18th Floor
Boston, MA 02108
For: OFFICE OF THE ATTORNEY GENERAL
Intervenor

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I. INTRODUCTION AND PROCEDURAL HISTORY

On March 16, 2023, the State 911 Department (“911 Department”) petitioned the Department of Telecommunications and Cable (“DTC”) for approval of increases to certain budgetary items, as outlined by statutory requirements (“Petition”). Specifically, the 911 Department requests approval of: (1) an increase to projected Fiscal Year (“FY”) 2023 expenditures; (2) an increase to FY2024 Public Safety Answering Point (“PSAP”) Regional Development Grant (“Development Grant”) amount; (3) Telecommunicator Emergency Response Taskforce (“TERT”) Grant Guidelines, and (4) Massachusetts Equipment Distribution Program (“MassEDP”) Request for Response (“RFR”). The DTC has 90 days to review and issue a final decision on the Petition before these requests are deemed approved. *See G.L. c. 6A, §§ 18B (i)(4)(5), 18H(c).*

On April 3, 2023, the DTC received a Notice of Intervention and Appearance from the Office of the Attorney General (“Attorney General”). The DTC issued its first set of Information Requests (“IRs”) to the 911 Department on April 5, 2023. First Set of Info. Requests of the DTC to the State 911 Dep’t (Apr. 5, 2023). The 911 Department filed its responses on April 18, 2023. Responses to First Set of Info. Requests of the DTC to the State 911 Dep’t (Apr. 18, 2023) (“IR 1-1 through IR 1-32”). The DTC submitted its second set of IRs to the 911 Department on April 25, 2023. Second Set of Info. Requests of the DTC to the State 911 Dep’t (Apr. 25, 2023). The 911 Department filed its responses on May 5, 2023. Responses to Second Set of Info. Requests of the DTC to the State 911 Dep’t (May 5, 2023) (“IR 2-1 through IR 2-24”). The 911 Department submitted proof of its publication of the Notice of Hearing on May 5, 2023. 911 Department’s Proof of Publication (May 5, 2023).

On May 11, 2023, the DTC conducted a public and evidentiary hearing on these matters

via the Microsoft Teams videoconferencing platform. *See generally* Transcript of Record (“Tr.”).

On May 23, 2023, the 911 Department responded to eight Record Requests the DTC issued at the evidentiary hearing. At the evidentiary hearing, the DTC recognized the Attorney General’s intervention. *See* Tr. at 5. The Attorney General did not file any comments in this proceeding.

In this Order, the DTC approves the 911 Department’s projected FY2023 expenditures, the FY2024 Development Grant amount, TERT Grant Guidelines, and MassEDP RFR.¹

II. ANALYSIS AND FINDINGS

State law requires the 911 Department to petition the DTC for approval of certain budgetary expenditures and percentage allocations for funds disbursed from the Enhanced 911 Fund (“Fund”). In particular, the 911 Department must petition the DTC if: (1) projected total expenditures exceed total expenditures of the previous fiscal year by 10% or more; (2) the Training Grant allocation equals or exceeds 7.5% of the total 911 service surcharge (“surcharge”) revenues of the previous fiscal year; (3) the Support Grant allocation equals or exceeds 31.25% of the total surcharge revenues of the previous fiscal year; (4) the Wireless State Police PSAP Grant allocation equals or exceeds 6% of the total surcharge revenues of the previous fiscal year; (5) an adjustment to the percentage of the prior fiscal year’s total surcharge revenues allocated to one or more of the four Incentive Grant categories² results in total projected expenditures for the combined Incentive Grants that exceed the initial total Incentive

¹ The 911 Department also requested that the DTC consider the Petition as satisfying for FY2023 the requirement under G.L. c. 6A, § 18H(b) that the 911 Department report annually to the DTC on the financial condition of the Fund. Petition at 1 n.1.

² The statute specifies allocations for each Incentive Grant category as follows: (1) for regional PSAPs serving 2 municipalities, 0.5% of the total surcharge revenues of the previous fiscal year; (2) for regional PSAPs serving 3 to 9 municipalities, 1.0% of the total surcharge revenues of the previous fiscal year; (3) for regional PSAPs serving 10 or more municipalities, 1.5% of the total surcharge revenues of the previous fiscal year; and (4) for regional emergency communication centers (“RECCs”), 2.0% of the total surcharge revenues of the previous fiscal year. G.L. c. 6A, § 18B(i)(4); 2008 Mass. Acts, 223 (“for regional PSAPs serving 10 or more municipalities, 1½ per cent of the total surcharge revenues of the previous fiscal year”).

Grants allocation of \$2,660,294 by 10% or more; or (6) the projected expenditures for the Development Grant exceed the initial total Development Grant allocation of \$7.5 million by 10% or more. G.L. c. 6A, §§ 18B(i)(1)-(5), 18H(c); *see also Petition of the State 911 Dep’t*, D.T.C. 19-2, *Final Order* (May 16, 2019) (“19-2 Order”) at 3.

State law also requires that expenditures from the Fund be prudently incurred and:

[A]ssociated with: the lease, purchase, upgrade or modification of primary and regional PSAP customer premises equipment and the maintenance of such equipment; network development, operation and maintenance; database development, operation, and maintenance; training of 911 telecommunicators regarding the receipt and use of enhanced 911 service information; education of consumers regarding the operation, limitation, role and responsible use of enhanced 911 service; grants associated with enhanced 911 service as set forth in subsection (i) and any other grant approved by the [911 Department] associated with providing enhanced 911 service in the commonwealth; the recurring and nonrecurring costs of communication services providers in providing enhanced 911 service in the commonwealth to the extent required by federal or Massachusetts law or regulation or federal or Massachusetts agency decision or order; and other expenses incurred by the [911 Department] in administering and operating the enhanced 911 system in the commonwealth.

G.L. c. 6A, § 18B(f). Thus, when reviewing 911 Department petitions, the DTC must determine whether the 911 Department’s allocations and expenditures are, or will be, prudently incurred.

See Petition of the State 911 Dep’t, D.T.C. 17-1, *Final Order* (Apr. 10, 2017) (“17-1 Order”) at 3-6; *Petition of the State 911 Dep’t*, D.T.C. 10-1, *Order* (Apr. 5, 2010) (“10-1 Order”) at 5-6;

G.L. c. 6A, § 18B(f). When examining whether an expense is, or will be, prudently incurred, the DTC assesses whether circumstances, at the time the decision was made, adequately justified the reasonableness of the expense. *See Petition of the Statewide Emergency Telecomms. Bd.*, D.T.C. 07-7, *Order* at 7, 9, 19 (Feb. 8, 2008) (“07-7 Order”). The DTC will not substitute its own

judgment for that of the 911 Department as to what is reasonably required to perform the 911 Department’s statutory obligations, and the 911 Department has the authority to determine which categories of equipment, training, and support expenditures it will submit to the DTC for

approval. *See Investigation by the Dep’t of Telecomms. & Energy to establish a surcharge*, D.T.E. 03-63-Phase I, *Order* at 16 (July 14, 2003) (finding that although the Statewide Emergency Telecommunications Board (“SETB”)³ must “support the reasonableness of its proposed expenditures, the [Department of Telecommunications and Energy (“DTE”)]⁴ lacks the jurisdiction to tell the SETB what categories of expenditure it is required to propose”). However, even though the 911 Department may decide that a certain expense is needed, all expenses must still be prudently incurred. *See 07-7 Order* at 8. Expenses are deemed prudent if they are necessary for the funding of the 911 Department’s provision of enhanced 911 services and programs in the Commonwealth and, at the same time, maintain a reasonable, stable surcharge level in order to protect the interests of communications service ratepayers. *See Petition of the State 911 Dep’t*, D.T.C. 11-2, *Order* at 4-5 (May 27, 2011) (“11-2 Order”); *07-7 Order* at 9; *Petition of the Statewide Emergency Telecomms. Bd.*, D.T.C. 07-7, *Interim Order* at 7 (Nov. 30, 2007); *Investigation by the Dep’t of Telecomms. & Energy to establish a permanent surcharge*, D.T.E. 06-4, *Order* at 27-28, 35 (Dec. 1, 2006).

A. Analysis of FY2023 Projected Expenditures

The 911 Department requests DTC approval of projected expenditures of \$227,737,144 for FY2023. *See Rev. Exh. A.*⁵ As actual expenditures were \$134,052,606 for FY2022, the 911 Department’s projected FY2023 expenditures represent an increase of greater than 10% from the previous fiscal year. *Id.* As discussed above, the 911 Department is required to seek approval for projected total expenditures that exceed the total actual expenditures of the previous fiscal year

³ The SETB was the predecessor agency to the 911 Department and was dissolved on February 1, 2009. *See 2008 Mass. Acts*, c. 223.

⁴ The DTE, the DTC’s predecessor agency, was dissolved on April 11, 2007. *See 2007 Mass. Acts*, c. 19.

⁵ The 911 Department provided the most current Exhibit A (hereinafter “Rev. Exh. A”) in its response to IR 2-1 on May 9, 2023. The 911 Department provided earlier versions of Exhibit A with the Petition, and in its response to IR 1-6 on April 18, 2023.

by 10% or more, and the DTC reviews the reasonableness of such requests by inquiring into whether these expenses are, or will be, prudently incurred. *See G.L. c. 6A, § 18H(c).* The 911 Department's projected expenses for FY2023 are grouped into four categories: (a) Administration; (b) Grant Programs; (c) 9-1-1 Administration and Operation; and (d) Accessibility and Other Programs. *See Petition at 4-15, Rev. Exh. A.* The DTC analyzes the prudence of the projected expenditures by category below and determines that the 911 Department's total projected FY2023 expenditures are necessary in order to provide 911 services and programs and are, or will be, prudently incurred.⁶

1. Administration

The 911 Department's projected FY2023 Administration expenses include Salary Costs, Agency Expenses, and Capital Projects, totaling \$7,784,644. *See Petition at 4, Rev. Exh. A.* The largest line item in the Administration category is Salary Costs, which the 911 Department projects to be \$5,995,641 for FY2023. *See Rev. Exh. A.* This represents a 5.2% increase over the FY2022 actual salary costs of \$5,697,028. *Id.* The 911 Department explains that this increase is needed to cover contractual step increases and cost-of-living adjustments required by union contracts. *See Petition at 4.*

The second item within the Administration category, Agency Expenses, is comprised of: (1) Employee Reimbursements; (2) Workers Compensation; (3) Administrative Expenses; (4) Operational Supplies; (5) Utilities/Space Rental; (6) Consultant Services; (7) Operational Services; (8) Equipment Purchases; (9) Lease, Maintenance, Repair Services; (10) Building Maintenance,

⁶ Regarding the use of the monthly average number of subscribers as of December 30, 2022, for the FY2024-2027 projections which showed a decrease by roughly 400,000 in a 6-month period (refer to D.T.C. IR 2-3), the DTC recommends the 911 Department consider using a 12-month average number of subscribers in projections to smooth out the impact that monthly subscriber fluctuations have on revenue projections.

Repairs; and (11) IT Services, Equipment.⁷ *Id.*; Rev. Exh. A. The 911 Department's projected total Agency Expenses for FY2023 are \$1,303,566, which is consistent with the 911 Department's FY2022 projections of \$1,390,277. *See Rev. Exh. A.*

Capital Projects, the final item within the Administration expenses category, is projected at \$485,437 for FY2023. *See Rev. Exh. A.* The 911 Department's initial projections included funding for the replacement of radio consolettes and radio systems at the North Shore Regional 911 Center, and the replacement of a vehicle. *See Petition at 4.* The 911 Department subsequently explained that it no longer has a need to replace the vehicle and has revised capital projects projections accordingly. *See IR 1-6(c); see also Rev. Exh. A, compare to Exh. A.*

The DTC finds that the 911 Department's Administration expenses are necessary in order to provide 911 services and programs and are, or will be, prudently incurred.

2. Grant Programs

Massachusetts law requires the 911 Department to administer several grant programs related to the provision of enhanced 911 services. *See G.L. c. 6A, § 18B(f), (i).* The 911 Department's projected program expenditures for these categories in FY2023 total \$121,518,205. *See Rev. Exh. A.* Massachusetts statute establishes minimum and maximum spending levels for several of the 911 Department's grant programs, spending beyond which requires the 911 Department to seek DTC approval. *See G.L. c. 6A, § 18B(i).* Even if the 911 Department's projected expenditures for a particular grant do not exceed the spending minimums or maximums that trigger required DTC approval, the DTC must determine whether projected spending for these grants in FY2023 will be prudently incurred as a part of its review of the 911 Department's total proposed FY2023

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These categories and permissible associated expenses derive from the Office of the Comptroller of the Commonwealth, which oversees and implements the Commonwealth's accounting system. *See 17-1 Order at 10.*

expenditures. G.L. c. 6A, § 18B(i). The DTC reviews the 911 Department’s request for approval of the FY2024 Development Grant amount separately, below. *See infra* Section II B.

The 911 Department proposes little change to the FY2023 projected spending amount for the PSAP and RECC Training Grant (“Training Grant”)⁸ as compared to the previous year. *See* Rev. Exh. A. The amount remains within the grant’s statutorily prescribed allocation. *See* G.L. c. 6A, § 18B(i)(1).

The 911 Department projects spending \$36.8 million for the FY2023 Support Grant,⁹ an increase of \$6.6 million from the previous year. *See* Rev. Exh. A. The proposed FY2023 expenditure remains within the grant’s statutorily prescribed allocation. *See* G.L. c. 6A, § 18B(i)(2).

The 911 Department proposes little change to the FY2023 projected spending amount for the Emergency Medical Dispatch Grant (“EMD Grant”) as compared to the previous year. *See* Rev. Exh. A. The DTC approved the establishment of the EMD Grant with an initial allocation factor of 3% of the total surcharge revenues of the prior fiscal year. *See 11-2 Order* at 8-12. Projected FY2023 expenditures for the EMD Grant total 1.4% of FY2022 surcharge revenues, below the

⁸ The Training Grant is used to “reimburse primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to the training and certification of enhanced 911 telecommunicators.” G.L. c. 6A, § 18B(i)(1). Massachusetts law requires the 911 Department to allocate 5% of the prior year’s surcharge revenues to the Training Grant, or other amount determined by the 911 Department and approved by the 911 Commission but not less than 3.75% of the prior year’s surcharge revenues. *Id.*

⁹ This grant reimburses: “primary, regional and regional secondary PSAPs and [RECCs] for allowable expenses related to enhanced 911 telecommunicator personnel costs, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment and other environmental control equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarm receipt and alert equipment associated with providing enhanced 911 service; regional PSAPs and [RECCs] for allowable expenses related to the acquisition and maintenance of public safety radio systems; regional secondary PSAPs for allowable expenses related to PSAP customer premises equipment maintenance; and primary, regional, and regional secondary PSAPs and [RECCs] for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the [911 Department].” *Id.* Massachusetts law requires the 911 Department to allocate 25% of the prior year’s surcharge revenues to the Support Grant, or other amount determined by the 911 Department and adopted by the 911 Commission, but not less than 18.75% of the prior year’s surcharge revenues. *Id.*

initial allocation for this grant. *Id.*; Rev. Exh. A. The DTC determines that projected FY2023 expenditures for the Training, Support, and EMD Grants are necessary for the 911 Department to meet its statutory obligations, and finds that these projected expenditures are, or will be, prudently incurred.

The 911 Department projects spending \$3.2 million for the Wireless State Police Grant, proposing little change as compared to FY2022. *See* Rev. Exh. A. The allocation factor of 2% of the previous year's surcharge revenues remains within the grant's statutorily prescribed allocation. G.L. c. 6A, § 18B(i)(3).

Additionally, for each Incentive Grant, the proposed FY2023 expenditures are within the approved allocation formulas and do not require additional DTC approval under G.L. c. 6A, § 18B(i) (4).¹⁰ *See 22-1 Order* at 18-20. Because the projected expenditures on each of these grants are within approved allocations, the DTC finds that they are, or will be, prudently incurred.

The 911 Department projects \$30 million in FY2023 spending for the Development Grant, an \$8 million increase of projections expenditures from FY2022. *See* Rev. Exh. A. The Development Grant supports PSAP regionalization efforts to achieve the goal of maintaining an efficient and consistent 911 service, as discussed in greater detail below. *See Infra.* at 11-13. The 911 Department notes that 52 PSAPs have regionalized since the inception of the Development Grant in 2009. *See* Petition at 6. The 911 Department contends that increased funding levels for this program will support the expected regionalization of twelve of the Commonwealth's 212 PSAPs in the next five years. *Id.* The DTC has previously approved this FY2023 projection. *See 22-1 Order* at 15-17.

¹⁰ DTC has allowed adjustments to two of the four statutory allocations, as permitted by G.L. c. 6A, § 18B(i)(4). *See Petition of the State 911 Dep't, D.T.C. 22-1, Final Order* (June 1, 2022) ("22-1 Order") at 18-19 (increasing to 3% the allocation for PSAPs serving three to nine municipalities) and 20 (increasing the RECC allocation to 12%).

The DTC determines, for the reasons discussed above, that the 911 Department’s projected grant expenses for FY2023 are necessary for the 911 Department to meet its statutory obligations and are, or will be, prudently incurred.

3. 9-1-1 Administration & Operation

The third category of projected FY2023 expenses is “9-1-1 Administration & Operation,” which the 911 Department projects to be \$96,834,296 for FY2023. *See Rev. Exh. A.* The majority of spending in this category—approximately 85 percent—is allocated to Next Generation 911 (“NG911”) and the modernization and expansion of the Commonwealth’s Interoperable Radio System (“CoMIRS”). *See Rev. Exh. A.* As discussed below, the DTC determines the 911 Department’s projected 9-1-1 Administration & Operation expenses for FY2023 are, or will be, prudently incurred.

a. *NG911*

The 911 Department’s FY2023 projected spending on both recurring and non-recurring NG911 costs is based upon a contract executed through a public procurement process in 2019. *See Petition at 8 and 18-2 Order at 11-12.* The DTC finds that the projected FY2023 recurring expenses related to NG911 are contractual, and that both the recurring and non-recurring NG911 expenses are necessary to achieve the 911 Department’s statutorily mandated goals. These FY2023 expenditures therefore are, or will be, prudently incurred.

b. *Statewide Radio Infrastructure*

The 911 Department projects that it will spend \$46,112,303 in FY2023 for CoMIRS, representing a \$24 million increase from projected expenses from the previous year. *See Rev. Exh. A.* CoMIRS is an existing statewide interoperable radio network that serves as the primary communications tool for many public safety-first responders including the Massachusetts State

Police. *See* Petition at 8. As such, PSAPs utilize the CoMIRS network to quickly and efficiently dispatch and relay emergency 911 information to first responders. *Id.*

The 911 Department states that the large increase in projected CoMIRS expenses is due to a significant increase in IT equipment purchases—both for subscriber units and the network—resulting from resolution of manufacturing delays. *See* IR 1-32. The 911 Department notes that the delays in subscriber unit manufacturing have been resolved and the manufacturer reports that a backlog of mobile devices will be delivered prior to the end of FY2023. *See* IR 2-21.

Subject to and consistent with the findings and conditions the DTC has previously placed on the use of 911 surcharge funds for CoMIRS, the DTC finds that the 911 Department’s proposed FY2023 expenditures on the CoMIRS project are, or will be, prudently incurred.¹¹

4. Accessibility and Other Programs

The final category of projected expenses in FY2023 is Accessibility and Other Programs, for which the 911 Department projects \$1,600,000 in expenditures. *See* Rev. Exh. A. This category comprises line items for training, public education, Specialized Customer Premises Equipment (“SCPE”), relay (telecommunications relay service or “TRS”), and CapTEL Captioned Telephone Service (“CapTel”).¹² *Id.*

¹¹ Through prior orders, the DTC has ensured that 911 surcharge funds are not expended on CoMIRS expenses unrelated to 911 functions. *See, e.g.*, 22-1 Order at 10-14; 21-3 Order at 11-12. For example, the DTC directed the 911 Department to develop detailed formal guidance for the project administrator, the Executive Office of Technology Services and Security (“EOTSS”), on how to determine whether an expenditure is related to 911 dispatch. *See* 20-1 Order at 15. The DTC also directed the 911 Department to include in its annual reports going forward, detailed information on compliance with these guidelines, including a detailed account of CoMIRS project updates, a detailed list of current fiscal year CoMIRS expenditures separate from its general operational expenditures, and a detailed list of funding sources for the CoMIRS project including the total CoMIRS cost and the funding contribution from each source. *Id.* at 16. Finally, the DTC directed the 911 Department to file copies of the quarterly reports due to it from EOTSS under the entities’ interdepartmental service agreement. *Id.*

¹² The 911 Department is statutorily mandated to administer the SCPE, TRS and CapTel programs. *See* G.L. c. 166, § 15E.

The 911 Department's projected expenses for the training, public education, and SCPE line items are substantially similar to the projected expenditures from the previous year. *See Rev. Exh. A.* The 911 Department proposes FY2023 expenditures of \$500,000 for TRS, a decrease of over \$300,000 from the projected expenditures from the previous year. *See Rev. Exh. A.* As alternative technologies such as wireless phones have become available, TRS actual expenditures have decreased over time due to decreased usage. *See 21-3 IR, 1-16; 21-3 Tr. at 66-67.* The FY2023 decrease in projected expenditures aligns with this trend.

The 911 Department projects FY2023 expenses of \$200,000 for CapTel, a decrease of over \$1.8 million from the previous year. *See Rev. Exh. A.* The 911 Department explained that the projected FY2023 amount is intended to maintain funding levels for these services. *See Petition at 12.* The FY2022 projected expenditures included costs related to the provision of CapTel at facilities maintained by the Department of Corrections ("DOC").¹³ *Id.* The 911 Department explained that the actual expenditures for FY 2022 CapTel expenditures were lower than projected because DOC funded a total of \$2,033,254 in CapTel services attributable to its population. *See IR 1-8.* In addition, the 911 Department's FY 2023 projections have also decreased for CapTel services because DOC has undertaken significant fiscal responsibility for services attributable to its population. *See IR 1-9.*

The DTC finds that the 911 Department's projected FY2023 expenses associated with these programs are necessary to provide enhanced 911 services and adequately fund the programs, and are, or will be, prudently incurred.

5. Conclusion

The DTC determines that the 911 Department's projected FY2023 expenditures are

¹³ In 2019, the DOC entered into a settlement agreement with the Department of Justice, requiring the DOC to provide inmates with CapTEL services and devices. *22-1 Order* at 14.

reasonable and are, or will be, prudently incurred, consistent with the above. Accordingly, the DTC approves the expenditures pursuant to G.L. c. 6A, § 18H(b) and (c).

B. Analysis of FY2024 Development Grant Amount

The 911 Department seeks approval of its proposal to increase the Development Grant allocation to \$40 million for FY2024. *See* Petition at 13-14. The 911 Department projected Development Grant expenditures of \$15 million for FY2019 and FY2020, \$18 million for FY2021, \$22 million for FY2022 and \$30 million for FY2023, with projected Rollover Development Grant expenses for FY2023 of \$10,215,069, which covers grants awarded in prior fiscal years, but not yet disbursed. *See* Rev. Exh. A. State law requires the 911 Department to obtain DTC approval of any adjustment in the Development Grant that increases the initial funding allocated to the Development Grant—\$7.5 million—by 10% or more. G.L. c. 6A, § 18B(i)(5).

The Development Grant is designed to support PSAP regionalization, which helps achieve the goal of maintaining an efficient and consistent enhanced 911 service. *See* G.L. c. 6A, § 18B(i)(5). The Development Grant was established by statute to, “support the development and startup of regional and regional secondary PSAPs and [RECCs], including the expansion or upgrade of existing regional and regional secondary PSAPs.” *Id.* The purpose of the Development Grant is to “maximize effective emergency 911 and dispatch services as well as regional interoperability.” *Id.* In accordance with statutory requirements, the 911 Department has established guidelines regarding “[t]he eligibility for criteria, amount and allocation of funding,” with the approval of the State 911 Commission. *Id.*; *see also* 17-1 Order at 14. On November 16, 2022, the State 911 Commission voted unanimously to authorize the 911 Department to seek DTC approval of a \$40 million allocation amount for FY2024. *See* Petition at 14.

The 911 Department stated that the \$40 million figure will allow it to fund projects more

fully than it has in the past several fiscal years given the strong past interest in the Development Grant. *See* Petition at 13-14. The 911 Department received total grant requests for FY2023 of \$54,598,225. *See* IR 1-12(a). While \$15,391,816, was spent in FY2022 out of a projected \$22 million, many of the projects funded by this grant take place over multiple fiscal years. *See* Rev. Exh. A; IR 2-12. The 911 Department states that, as of the date of the Petition, 52 PSAPs have become regionalized through either a regional PSAP or a RECC since the Development Grant program began, and that it expects 12 additional PSAPs to regionalize over the next five years. *Id.* at 6. Further, statutory changes since the creation of the Development Grant have facilitated municipalities' efforts to establish regional PSAPs and RECCs through the creation of regional 911 emergency communication districts. *See* 2014 Mass. Acts, c. 500 (codified at G.L. c. 6A, §§ 18O-18V (2015)).

The DTC finds that the 911 Department's requested Development Grant allocation amount is necessary to meet its statutory obligation to maximize effective 911 services and regional interoperability, and that expenditures related to this funding level will be prudently incurred.¹⁴ Accordingly, the DTC approves the Development Grant allocation of \$40 million for FY2024.

C. Telecommunicator Emergency Response Taskforce (“TERT”) Grant Guidelines

The 911 Department seeks approval for the TERT Grant, a new grant program meant to implement a TERT program in Massachusetts. The TERT program, implemented through a joint endeavor between the Executive Office of Public Safety and Security, the 911 Department, and the Statewide Interoperability Coordinator, is designed to support 911 communications centers requiring assistance. *See* Petition at 14; IR 1-18. TERT was created to ensure that PSAPs have

¹⁴ The DTC has encouraged the 911 Department to identify the savings produced in other areas of its budget due to PSAP regionalization. 22-1 Order at 17; 21-3 Order at 9; 20-1 Order at 19. In 22-1, the 911 Department identified one such area, stating that PSAP equipment costs were approximately \$28 million in FY2009 and approximately \$5 million in FY2021. *See* 22-1, RR-1.

adequate staffing to remain operational and continue to provide 911 services to their residents during shortages due to special circumstances, such as natural disasters, widespread illness, or major events. *See* IR 2-14.

The initial TERT Grant will begin on July 1, 2023, and run through June 30, 2026. *See* Petition at 7. The purpose of the TERT Grant is to reimburse primary PSAPs, regional PSAPs, regional secondary PSAPs, RECCs and State Police Wireless Center for allowable expenses relating to the training and deployment of TERT team members. *See* Exh. C at 6. The 911 Department seeks approval of the TERT Grant Guidelines, which identify allowable expenses for PSAPs seeking reimbursement under the grant program, as well as eligibility guidelines, the grant funding process, and allowable TERT activation instances. *See* Exh. C. The DTC finds that the TERT Grant program will have a beneficial impact on the delivery of 911 services across the Commonwealth by helping to build capacity within and across PSAPs, particularly where PSAPs have critical short-term staffing needs due to a major event or special circumstances. Therefore, the DTC approves the TERT Grant Guidelines.

D. MassEDP RFR

The 911 Department is statutorily mandated to provide and maintain an SCPE Distribution Service program. *See* Petition at 12, and G.L. c. 166, § 15E. This program distributes devices that provide access to telephone networks for people with hearing, speech, vision, mobility, or cognitive disability. *Id.* The 911 Department stated that it currently has an interim contract with Teltex, Inc. and wishes to solicit bids for the provision of specialized customer premises equipment. *See* IR 1-24. In turn, the DTC is responsible for the review and approval of the RFR. G.L. c. 166, § 15E(c) (“Prior to the implementation of [SCPE] services [...], the [911] department and the Massachusetts commission on the deaf and hard of hearing

shall issue a request for proposals subject to the [D]epartment of [T]elecommunications and [C]able's review and approval seeking competitive bids from qualified vendors to provide such services.”).

The 911 Department states that the RFR seeks bids from one or more contractors capable of supplying specialized customer premises equipment, coordinating necessary repair and replacement, and offering trade-in values on new and used specialized customer premises equipment upon request of the 911 Department. *See* Amended Exh. D at 1. The 911 Department seeks to procure the services of one or more contractors. *Id.* The target contract effective start date is July 1, 2023. *Id.* at 4. The initial contract duration shall be for a period of three years, with an additional three-year extension option at the discretion of the 911 Department. *Id.* The contract shall end no later than six years from the effective date of the contract, or June 30, 2029, whichever is later. *Id.*

When evaluating a RFR such as the one before the DTC, a standard of reasonableness is applied. *See* D.T.C. 07-4 at 7; *New England Tel. & Tel. Co. d/b/a NYNEX*, D.P.U. 95-54 at 4; *New England Tel. & Tel. Co. d/b/a Bell-Atlantic Mass.*, D.P.U. 98-73 at 4. The standard of reasonableness requires the DTC to balance the desire to maintain a low cost to ratepayers with due regard for reliability and quality that are consistent with the public interest. *See* D.T.C. 07-4 at 7. For the reasons discussed below, the 911 Department's RFR satisfies that standard.

The RFR was developed in consultation with the Massachusetts Commission on the Deaf and Hard of Hearing, the Massachusetts Commission for the Blind, and the Massachusetts Rehabilitation Commission. *See* Petition at 15; Amended Exh. D at 1. The cross-agency collaboration provides the DTC with confidence that the RFR was developed by the 911 Department with great care and meets the needs of people with a hearing, speech, vision,

mobility or cognitive disability. The RFR also includes equipment warranties that will cover all labor, parts, materials, and any needed retrofitting or upgrading for failures in material or performance, with the cost being borne by the contractor, including all shipping and other expenses required to provide the warranty service. *See* Amended Exh. D at 11. In addition, the RFR requires contractors to provide equipment user instruction manuals and quick reference guides, as well as to offer trainings, at no additional charge, to 911 Department staff on the use and installation of equipment. *Id.* at 13-14. The DTC finds that the conditions set forth in the RFR will likely result in a contract that is in the public's best interest.

Further, the RFR looks to reduce the cost to ratepayers in several ways. It requires contractors to agree to offer trade-in values on new and used specialized customer premises equipment upon request of the 911 Department, crediting the trade-in allowance immediately following receipt of the trade-in equipment by the contractor. *See* Amended Exh. D at 15. It also requires all bidders to agree to offer discounts for receiving early and on-time payments, unless a bidder can provide compelling proof that it would be unduly burdensome. *Id.* at 25. Additionally, the RFR is structured as an open bid. The DTC finds this reasonable, as the open bid format maximizes the opportunity for capable providers to compete for the contract. Moreover, the RFR calls for a three-year term, with an option to extend the contract for an additional three years. *Id.* at 4. The DTC has previously found that multiple-year contracts tend to yield better prices and attract more bidders in similar contexts. *See* D.T.C 07-4 at 9 (approving as reasonable a RFR incorporating a five-year term for Telecommunications Relay Service). As detailed in the RFR, the ultimate evaluation of bids will consider several factors, including price. *See* Amended Exh. D at 29-30 (listing evaluation criteria). The DTC finds that the RFR is reasonably designed to maximize the opportunity of obtaining high quality specialized customer premises equipment

and services at a fair price. Therefore, the DTC approves the RFR as submitted as Amended Exhibit D.

III. ORDER

Accordingly, after notice, hearing, and due consideration, it is:

ORDERED: That the 911 Department's proposed FY2023 expenditures are APPROVED; and it is

FURTHER ORDERED: That the 911 Department's proposed adjustment to the Development Grant for FY2024 is APPROVED; and it is

FURTHER ORDERED: That the 911 Department's TERT Grant Guidelines are APPROVED; and it is

FURTHER ORDERED: That the 911 Department's MassEDP Request for Response is APPROVED; and it is

FURTHER ORDERED: That the Petition satisfies the requirement of G.L. c. 6A, § 18H(b) that the 911 Department file an annual report on the financial condition of the Enhanced 911 Fund for FY2023.

By Order of the DTC,



Karen Charles
Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the DTC may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the DTC be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the DTC within twenty (20) days after the date of service of the decision, order or ruling of the DTC, or within such further time as the DTC may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of DTC Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may also be brought pursuant to 47 C.F.R. § 76.944.