U.S. Department of Energy
Office of Inspector General
Office of Audits and Inspections

Audit Report

The Department of Energy's American Recovery and Reinvestment Act – California State Energy Program

OAS-RA-11-10

July 2011

Department of Energy
Washington, DC 20585

July 28, 2011

MEMORANDUM FOR THE ACTING ASSISTANT SECRETARY FOR ENERGY EFFICIENCY AND RENEWABLE ENERGY

George W. Collard

FROM: George W. Collard
Assistant Inspector General
for Audits
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on "The Department of Energy's American Recovery and Reinvestment Act – California State Energy Program"

BACKGROUND

The Department of Energy's Office of Energy Efficiency and Renewable Energy (EERE) provides grants to states, territories and the District of Columbia (states) through the State Energy Program (SEP). Federal funding, based on a grant formula that considers the population and energy consumption in each state, amounted to $25 million for Fiscal Year (FY) 2009 for the entire Program. The American Recovery and Reinvestment Act of 2009 (Recovery Act) expanded the SEP by authorizing an additional $3.1 billion to states using the existing grant formula. EERE grant awards to states were designed to achieve SEP Recovery Act objectives to preserve and create jobs, save energy, increase renewable energy sources, and, reduce greenhouse gas emissions.

The California Energy Commission (Commission) received a SEP Recovery Act grant of $226.1 million. The Commission planned to use $193 million of these funds to provide energy efficiency retrofits for 29,000 residential and 5,500 commercial buildings and to create 2,100 jobs. Over $80 million was to provide loan capital for business equipment and public building retrofits while $113 million was allocated to incentive programs to encourage energy efficiency retrofits of existing residential and commercial buildings. The remaining $32.4 million was provided for program management and green jobs training. EERE program guidance emphasized that states were responsible for administering the SEP and for implementing controls over the use of Recovery Act funds.

Because of the states' role in the implementation of the Recovery Act, we initiated this review to determine whether California was effectively administering its SEP Grant.

RESULTS OF AUDIT

We found that the Commission experienced delays in executing its plan to spend SEP Recovery Act funds. In fact, as of June 2, 2011, 2 years after SEP funds became available in June 2009, California had spent only $68 million of its $226.1 million award. Spending was primarily confined to direct loans for state and municipal building retrofits and green jobs training.

Further, although the Commission had made progress in resolving weaknesses revealed by several SEP specific audits, it had not completed all necessary actions to monitor sub-recipients of SEP funds. Finally, we determined that EERE had not effectively monitored the Commission's actions to correct previously discovered program weaknesses.

State Energy Program Spending Delays

Numerous factors contributed to delays the Commission experienced in its implementation of its energy efficiency building retrofit projects. Initially, the Commission planned to award building retrofit loans and contracts by February 1, 2010; however, delays occurred as the Commission worked to comply with Recovery Act specific requirements. Regulator concerns and lawsuits also delayed the Commission's plans to offer incentives to retrofit residential and commercial buildings.

According to knowledgeable officials, the Commission was slow in expending about $193 million for business equipment and public building retrofits because of the time required to meet regulatory requirements. Specifically, Commission officials stated that the Recovery Act established new requirements that had previously not been applicable to activities carried out under the annual grant award. Further, the increase in funding available under the Recovery Act SEP grant allowed the Commission to plan projects that required greater regulatory compliance than activities previously carried out under the Program.

Commission officials told us that the time required to ensure regulatory compliance delayed the retrofit projects as they worked with EERE National Environmental Policy Act (NEPA) Compliance Officers, the Department of Labor, and California's State Historic Preservation Office to get the necessary approvals. For example, compliance with the Davis-Bacon Act required ensuring that local prevailing wage rates were available and making sure that provider payroll systems could support periodic and certified payroll reporting requirements. Planned retrofit projects often required additional reviews to ensure compliance with NEPA and the National Historic Preservation Act; actions that had not been required for previous activities which were generally limited to administrative functions such as providing technical assistance and establishing energy efficiency standards.

Additionally, regulator concerns, as well as litigation, led the Commission to cancel its plan to use a financing instrument known as Property-Assessed Clean Energy (PACE) as an incentive for residential and commercial energy efficient building retrofits. PACE is a local-government energy financing option that allows property owners to finance energy improvements and repay the loan over 20 years through a special property tax assessment. PACE was a key component of the Commission's plans to expend $110 million on incentives to retrofit residential and commercial buildings. The Commission planned to execute five contracts by February 1, 2010, to help local governments provide PACE financing for residential and commercial retrofits. Energy cost savings from the retrofit were to be used to pay back the PACE loan. Several of the planned residential and commercial program contracts identified PACE as a major source of financing.

Delays occurred in May 2010 as a result of a lawsuit that protested the Commission's award selections and the Federal Housing Finance Agency and other regulators expressed concerns that PACE loans posed risks for existing lenders because the loans have a priority lien over existing mortgages. Due to the lawsuit and concerns by regulators, the Commission, in July 2010, cancelled plans to award the five contracts. The Commission executed a contract in October 2010, to replace PACE financing with a state-wide energy financing mechanism. Concerns and litigation about PACE effectively delayed the Commission's plans to incentivize residential and commercial retrofits and expend the $110 million dedicated to this purpose by almost a year after originally planned.

Given the delays experienced implementing the various SEP initiatives, the Commission is at risk of not spending its Recovery Act funding by April 30, 2012, as required by the grant award, and meeting its building retrofit goals.

Program Safeguards

Although the Commission had made progress in correcting previously identified weaknesses, it had not completed all necessary actions to monitor SEP fund sub-recipients. Further, EERE had not effectively monitored the Commission's actions to correct SEP internal control weaknesses.

In 2009 and 2010, the California State Auditor (State Auditor) and the Commission's contracted auditor, respectively, identified internal control weaknesses with the Commission's readiness to manage Recovery Act funds. Specifically, in December 2009, the State Auditor reported that the Commission had not developed an adequate system of internal controls to administer SEP Recovery Act funds. For example, the State Auditor found that the Commission needed better controls to collect and report data on the performance of the program and that lack of controls would increase the risk that the funds would not be used appropriately.

In response, the Commission contracted with an auditor to assess the Commission's and sub-recipient's controls. The State Auditor performed a June 2010 follow-up review and reported concerns that sub-recipient monitoring procedures were not complete. In July 2010, the Commission's contract auditor also reported that the Commission faced challenges to ensure its processes, procedures, and internal controls were effective in areas such as monitoring sub-recipients. Finally, in March 2011, the State Auditor reported that the Commission had partially completed corrective actions to improve its control structure over the use of Recovery Act funds. Among other things, the State Auditor noted that the Commission had hired an audit contractor that would conduct risk assessments and audits of sub-recipients.

We also found that EERE had not adequately monitored the Commission's efforts to resolve previously identified weaknesses. EERE told us that the December 2009 State Auditor report was forwarded to Golden Field Office (GFO) staff less than one week after its release, requesting GFO's response to the report. However EERE told us it could not document what, if any, follow-up steps were taken. Officials from GFO, EERE's Field Performance Management Office of Field Operations (Headquarters) and National Energy Technology Laboratory (NETL) also performed reviews of the Commission's SEP program in August 2010, but according to EERE, did not appear to be aware of the State Auditor's December 2009 report. In fact, GFO and NETL officials were unaware of the State Audit report until we brought the audit findings to their attention in September 2010 and January 2011, respectively. In addition to audit follow-up coordination problems, we also observed apparent inconsistencies related to monitoring and oversight. As part of the August 2010 monitoring visit, GFO and Headquarters Project Officers noted that the Commission's sub-recipient monitoring manual was incomplete and that sub-recipient monitoring visits had not yet been conducted. However, the review concluded that the Commission's monitoring of sub-recipients was adequate, issued no findings and did not recommend follow-up.

Headquarters officials told us that, the Office of Management and Budget (OMB) selected a few state audit reports including California to be a part of an OMB Pilot Program for Single Audits. As a result, EERE Headquarters issued a memorandum in October 2010, requesting that the Commission respond to GFO with an updated status of its actions to correct the findings. In November 2010, the Commission responded to GFO, noting that it had completed actions to award all SEP funds but had not completed procedures and plans to monitor and assess sub-recipient internal controls and energy savings. As of January 2011, Headquarters, GFO and NETL had not performed any site monitoring specifically to ensure that the Commission had effectively resolved all the weaknesses reported by the State Auditor and the Commission's auditor. EERE Headquarters officials told us that they subsequently visited California in March 2011, and were still concerned about the Commission's documentation of its sub-recipient monitoring process.

We concluded that the roles and responsibilities for following up on the weaknesses were not defined and coordinated between Headquarters, GFO and NETL. Although Headquarters' October 2010 memorandum instructed the Commission to send its response to GFO, it did not define GFO's role in the resolution process. EERE Headquarters officials told us they had coordinated reaction to the State Auditor findings with project and contracting officers as well as program office staff, instructing them to review the findings, recommendations, corrective actions and management decisions and to provide feedback on concurrences and non-concurrences. GFO officials, however, told us that they believed it was NETL's responsibility to follow up on audit report findings. Conversely, NETL officials told us that they only follow up on Office of Management and Budget A-133 Single Audit Act financial statement audits. EERE management stated that it has continuously reviewed and updated the roles and responsibilities of project officers engaged in monitoring. EERE also stated that in 2010, a working group, which involve cross functional groups, developed a Single Audit Resolution and Management Decision Process. According to EERE, procedures from this process were implemented, tested and improved between January and March 2011.

Program Impacts

Spending delays and the control deficiencies may impact California's ability to meet SEP Recovery Act goals. Although California estimated that the $193 million Recovery Act investment would result in estimated annual energy savings of 2.7 million British thermal units through energy efficiency retrofits for 29,000 residential and 5,500 commercial buildings and create 2,100 jobs, by April 30, 2012, the Commission had reported only 210 jobs created and only 85 commercial and residential retrofits had been completed as of December 31, 2010. In fact, only 30 retrofits were completed in the last quarter of 2010. With close to a year remaining in the grant, the Commission would have to increase its completion rate exponentially, to approximately 5,800 residential, and 1,083 commercial unit retrofits each quarter to reach its retrofit and annual energy savings goals.

In a May 2011 update, the Commission indicated that the SEP program would achieve less than half of the energy efficiency retrofits presented in the state plan. The Commission reduced its estimate of the number of commercial and residential retrofits the SEP expects to complete from 34,500 to 16,629. The Commission also stated that the number of completed commercial and residential retrofits increased from 85 as of December 2010 to 1,276 as of May 20, 2011. SEP sub-recipients had 3,128 projects underway and expected to complete 16,629 retrofits during the SEP performance period. Improvements in EERE's oversight and monitoring of California's use of SEP funds, however, are needed to ensure that previously identified internal control weaknesses are resolved and the effective use of such funds in achieving Recovery Act objectives.

RECOMMENDATIONS

To ensure that the issues addressed in this report are resolved and in light of California's program results to date, we recommend that the Acting Assistant Secretary for Energy Efficiency and Renewable Energy:

1. Establish and implement clearly defined roles and responsibilities to ensure that the Commission's internal control weaknesses are resolved;

2. Aggressively monitor the Commission's progress toward achieving its SEP Recovery Act goals and take appropriate action to maximize the achievement of those goals; and,

3. Determine whether completion of the Commission's planned actions are possible, and, as appropriate, reallocate funds to other projects if necessary.

MANAGEMENT AND AUDITOR COMMENTS

EERE management concurred with the findings and recommendations and stated that it will continue to closely oversee the work carried out under the California SEP by continuing to conduct regular onsite visits in addition to communicating frequently with the State. Management agreed that sufficient and well understood internal controls and procedures are needed to ensure that grant funds are used as intended, and stated that it has developed and deployed a multi-layered monitoring plan that facilitates feedback between grantees and Department of Energy staff. The monitoring plan also tracks findings across grantees to identify any systemic trends. Management indicated that it was committed to acting quickly to address any issues, including increasing oversight and providing technical assistance and procedural recommendations. To that end, management provided an action plan to address our recommendations.

In particular, management stated that it had implemented an Audit Resolution and Management Decision process that formalized staff roles and responsibilities. Management also stated that it had engaged in periodic outreach calls to monitor grantees' progress toward achieving the goals of the program and to offer technical advice. Management stated that, during such an outreach call, it had requested the Commission to identify monetary targets and other metrics to ensure compliant completion of Recovery Act SEP activities in California. Management's verbatim comments are included in Attachment 3.

Management's comments and planned actions were responsive to the recommendations. As appropriate, management should consider incorporating the changes/improvements in the control structure for the State of California into best practices or lessons learned guides that could be shared among other grantees.

Attachments

cc: Deputy Secretary
Associate Deputy Secretary
Acting Under Secretary for Energy
Deputy Assistant Secretary for Energy Efficiency, Office of Energy Efficiency and Renewable Energy
Chief of Staff

OBJECTIVE, SCOPE AND METHODOLOGY

OBJECTIVE

The objective of our audit was to determine whether the California Energy Commission was effectively administering its State Energy Program (SEP) Grant.

SCOPE

The audit was performed between April 2010 and May 2011. We conducted work at the California Energy Commission (Commission), located in Sacramento, California; and, the Golden Field Office (GFO), in Golden, Colorado.

METHODOLOGY

To accomplish the audit objective, we:

- Reviewed laws and regulations, SEP Formula Grants Recovery Act Funding Opportunity, and Office of Management and Budget policies and procedures relevant to the management of the Department of Energy's (Department) Office of Energy Efficiency and Renewable Energy (EERE) American Recovery and Reinvestment Act of 2009 (Recovery Act) funding;

- Reviewed grant award files, terms and conditions, and correspondence documents;

- Held discussions with California officials at the Commission, Recovery Act Task Force, State Auditor, and the Department of General Services;

- Interviewed EERE officials at GFO, the National Energy Technology Laboratory, and EERE's Field Performance Management Office of Field Operations;

- Reviewed Property-Assessed Clean Energy correspondence from federal regulators and subsequent actions by California communities;

- Evaluated the California SEP Recovery Act state plan, award proposals and contracts;

- Reviewed EERE and California policies and procedures, reports and correspondence associated with SEP projects and requests for proposals; and,

- Performed transaction testing for a sample of SEP Recovery Act transactions.

We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. We assessed the significant internal controls and found that measures specifically related to accounting for the Recovery Act SEP program had not been fully established. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. We did not rely upon computer processed data to accomplish our audit objective.

An exit conference was held with Department and Commission officials on July 14, 2011.

RELATED OFFICE OF INSPECTOR GENERAL AUDIT REPORTS

- *The Department of Energy's American Recovery and Reinvestment Act – Massachusetts State Energy Program* (OAS-RA-11-06, March 2011). The audit found that Massachusetts had not completed its sub-recipient oversight plans and procedures. Although Massachusetts planned to perform monitoring site visits to all direct sub-recipients and a select number of second-level sub-recipients, it had not defined when and how often such visits would occur. The audit also concluded that Massachusetts' obligations were overstated. For example, as of June 24, 2010, Massachusetts' State Energy Program (SEP) American Recovery and Reinvestment Act of 2009 (Recovery Act) funds were reported as 97 percent obligated even though at least 43 percent, or approximately $23.8 million, did not have executed contracts in place.

- *Management Controls over the Department of Energy's American Recovery and Reinvestment Act – Michigan State Energy Program* (OAS-RA-10-18, September 2010). The audit found that Michigan had established adequate internal controls over selecting Recovery Act projects and accounting for related expenditures. However, the accomplishment of Recovery Act goals could be impeded by Michigan's lack of effective procedures for assessing and monitoring high-risk SEP projects. Although Michigan officials stated that they planned to develop a schedule for performing on-site monitoring of high-risk recipients, they had not performed a risk assessment to identify such projects. Further, the Bureau of Energy Systems had not developed guidance for performing on-site monitoring of high-risk sub-recipients.

- *Status Report: The Department of Energy's State Energy Program Formula Grants Awarded under the American Recovery and Reinvestment Act* (OAS-RA-10-17, September 2010). The audit concluded that the Department of Energy (Department) had taken a reasonable, risk-based approach to the award and management of SEP grants. Yet, as observed in other, similar grant programs, a number of impediments adversely impacted SEP spending rates, and thus, had prevented the program from achieving significant economic and energy savings benefits. In particular, compliance with various regulatory requirements had slowed spending. The audit also identified issues and challenges with preparing projected and reported energy savings for the SEP and incomplete monitoring plans at the state level.

- *The Department of Energy's American Recovery and Reinvestment Act – Florida State Energy Program* (OAS-RA-10-12, June 2010). The audit identified weaknesses in the implementation of SEP Recovery Act projects that have adversely impacted Florida's ability to meet the goals of the SEP and the Recovery Act. Specifically, Florida used about $8.3 million to pay for activities that did not meet the intent of the Recovery Act to create new or save existing jobs. With the approval of the Department, Florida used these funds to pay for rebates related to solar energy projects that had been completed prior to passage of the Recovery Act. The audit also reported that Florida had not ensured that 7 of the 18 award requirements for Recovery Act funding had been passed down to sub-recipients as required.

- *The Department of Energy's American Recovery and Reinvestment Act – Louisiana State Energy Program* (OAS-RA-10-09, May 2010). The audit identified certain risks associated with Louisiana's strategy that could impact the State's ability to meet the goals of the SEP and the Recovery Act. Specifically, Louisiana had not: established controls to prevent double payments for Recovery Act energy conservation rebates to individuals who may have been approved or received payment under an existing State rebate program; developed contingency plans to replace projects in the event that they do not receive timely National Environmental Policy Act approval to enable the expenditure of Recovery Act funds before the April 2012 performance deadline specified in the grant agreement; and, fully documented and monitored the status of past internally managed SEP projects as required by both the Office of Energy Efficiency and Renewable Energy and Louisiana policies and procedures.

MANAGEMENT COMMENTS

Department of Energy
Washington, DC 20585

JUN 14 2011

MEMORANDUM FOR: Rickey R. Haas
Deputy Inspector General
For Audit Services
Office of Inspector General

FROM: Kathleen B. Hogan
Deputy Assistant Secretary
For Energy Efficiency
Office of Technology Development
Energy Efficiency and Renewable Energy

SUBJECT: Response to the Office of Inspector General Draft Report on "The Department of Energy's American Recovery and Reinvestment Act – California State Energy Program"

The Office of Energy Efficiency and Renewable Energy (EERE) appreciates the opportunity to review the Office of Inspector General's (IG) Draft Audit Report "The Department of Energy's American Recovery and Reinvestment Act – California State Energy Program."

The Department of Energy (Department) takes very seriously its responsibility to oversee and manage each of our American Recovery and Reinvestment Act (Recovery Act) grants to ensure that funds are being well spent to stimulate the economy and promote America's clean energy future. The Department concurs with the IG's recommendations and will continue to closely oversee the work carried out under California's State Energy Program (SEP). The Department will continue to conduct regular on-site visits at least twice per year moving forward. In addition, the Department will continue to communicate frequently with the State and will review all monthly and quarterly State reports.

The Department agrees with the IG that sufficient and well understood internal controls and procedures are necessary to ensure that grant funds are used as intended. The Department has developed and deployed a multi-layered monitoring plan. This approach creates feedback loops between a grantee and Departmental staff located in the field and at headquarters. It also tracks findings across grantees to identify any systemic trends.

The Department commits to acting quickly to address any issues, including increasing oversight and providing technical assistance and procedural recommendations. Departmental staff visited California between March 7 and March 10 of this year for the purpose of monitoring the SEP administered by the California Energy Commission (Commission). As assessed by the Department through these and other monitoring efforts, California's program has progressed with the development of a system to identify and monitor high-risk sub-recipients. Nevertheless, as of March 2011, the Department was still concerned that the Commission had not "summarize[d] [its] sub-recipient monitoring process in one document" and recommended that this step be taken in its monitoring report issued that month. Please see the attached "Response to Inspector General Draft Audit Report on the 'The Department of Energy's American and Recovery and Reinvestment Act – California State Energy Program'" for the Department's detailed reply to the IG's recommendations.

The Department has identified two errors of fact in the "Program Safeguards" section of the draft audit report and seeks their correction as outlined in the attached response document.

Printed with soy ink on recycled paper

EERE will continue to oversee the Recovery Act SEP efforts of the California Energy Commission with regular on-site visits, desk monitoring, and frequent communication.

Should you have any questions, please contact AnnaMaria Garcia at 202-287-1399.

Attachment

Response to Inspector General Draft Audit Report on the
"The Department of Energy's American and Recovery and Reinvestment Act –
California State Energy Program"

Recommendation 1
Establish and implement clearly defined roles and responsibilities to ensure that the Commission's internal control weaknesses are resolved.

Response
Concur

Project officers from the Office of Energy Efficiency and Renewable Energy Golden Field Office and the Department of Energy (Department) headquarters performed on-site monitoring of California's State Energy Program (SEP) during visits conducted from August 2 to August 5, 2010 and from March 7 to March 10, 2011. Both of these visits included inspections of sub-recipients. During the March 2011 visit, the Department's representatives assessed the California Energy Commission's (Commission) internal review and verification process and deemed it "robust." They noted that Davis-Bacon Act compliance regulations had increased the workload on Commission staffing and occasioned the hiring of a technical support contractor (McGladrey) to ensure that sub-recipients comply with labor and wage requirements, and they also registered that the Commission had engaged two other contractors (KEMA and Perry Smith) to assist with other verification and monitoring responsibilities. The Department commended the Commission for having improved its monitoring efforts since the August 2010 visit but also identified the need for more formal documentation of procedures. The Department therefore recommended to the Commission that it record its sub-recipient monitoring process "in one document." The Department has issued State Energy Program (SEP) Notice 10-015 (effective October 26, 2010) to assist grantees with sub-recipient monitoring.

The Department has identified two errors of fact in the "Program Safeguards" section of the draft audit report and seeks their correction.

- First, the report states that "Project Officers from…EERE's Field Performance Management Office of Field Operations (Headquarters) and National Energy Technology Laboratory (NETL) also performed a review of the Commission's SEP program in August 2010"(3-4). EERE project officers are not on the staff of EERE's Office of Field Performance Management. NETL is responsible for providing contracting officer and contract specialist support, but not project officer support, for the Commission's grant.

- Second, the report notes that "EERE acknowledged that coordination between Program staff and other EERE personnel was often lacking" and that "EERE officials told [the IG] that the new procedures to improve coordination and communication systems, if implemented, need to be reviewed and tested for effectiveness"(4). This language stems from an April 2011 communication by the headquarters program office to the IG in which these procedures were incorrectly characterized as immature. The procedures were implemented, stress-tested, and improved between January and March 2011.

Although the Office of Field Performance Management had not defined the single audit resolution and management decision process in October 2010, the Office did coordinate reaction to this single audit with project and contracting officers as well as headquarters program office staff during October 2010, instructing them to review the findings, recommendations, corrective actions, and management decisions and to provide feedback on concurrence or non-concurrence.

In January 2011, NETL asked Office of Field Performance Management staff to ensure that contract specialists and contracting officers receive copies of Field Performance Management letters in the future.

Since January 2011, the Office of Field Performance Management has defined, documented, and updated the single audit resolution and management decision process. Through emails, video conference and teleconference, the Office has coordinated and communicated the single audit resolution and management decision process with contracting officers and project officers as well as management in the headquarters program office, the Golden Field Office, and NETL to ensure all are informed and understand their roles, responsibilities, and expectations. This defined "Single Audit and For-profit entity audit Resolution and Management Decision Process," which is recorded in detailed flow charts, has been distributed in its current form since March 21, 2011. It formalizes roles and responsibilities for staff of the Office of the Chief Financial Officer (CFO) and the Office of Field Performance Management, as well as program staff at headquarters, the Golden Field Office, and NETL.

Estimated Completion Date: Completed

<u>Recommendation 2</u>
Aggressively monitor the Commission's progress toward achieving its SEP Recovery Act goals and take appropriate action to maximize the achievement of those goals.

<u>Response</u>
Concur

The Department remains cautiously optimistic that the Commission is positioning itself, with our assistance, to reach its goal within the terms of the award. SEP program leadership is monitoring the expenditure of funds by the Commission and other grantees on a daily basis. As of June 2, 2011, reported expenditures for the California SEP had reached $68,117,626 (30.1 percent of the award), up significantly from the $61 million cited in the IG's draft report issued on May 17, 2011.

Since March 2011 EERE field and headquarters project officers have been holding weekly discussions with the Commission to get updates on progress and to identify concerns that may need to be raised with SEP leadership. For its part, program leadership has been engaged in periodic "Quick Draw" outreach calls; these hour-long calls, now in their fifth round, connect program leadership with senior grantee officials in order to monitor grantees' progress toward achieving the goals of the program, and to offer advice and technical support. SEP leadership held its "Quick Draw Round 5" call with the Commission on May 6, 2011. This call delved deeply into implementation specifics and project management issues.

Estimated Completion Date: Summer 2011 through end of the performance period.

Recommendation 3
Determine whether completion of the Commission's planned actions are possible, and, as appropriate, reallocate funds to other projects if necessary.

Response
Concur

On May 6, 2011, program leadership conducted an hour-long outreach telephone call with the Commission (Quick Draw Round 5). Discussions were focused on identifying the monetary targets and other metrics that must be met by the close of June 2011 to ensure compliant completion of Recovery Act SEP activities in California. At the request of the Department, the Commission undertook to deliver these metrics in written form along with contingency plans for the reallocation of funds to alternative activities should the metrics not be achieved. These metrics and contingency plans are to be delivered in June and will be carefully vetted on the basis of their ability to ensure expenditure of all grant funds by the end of the grantee's period of performance on April 30, 2012.

EERE Project Officers will continue their regular desk and periodic in-state monitoring activities throughout the remaining grant performance period and will work with the Commission on the implementation of any necessary contingency actions.

Estimated Completion Date: Summer 2011 through end of the performance period.

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

May 27, 2011

Mr. George Collard
Assistant Inspector General for Audit Services
Department of Energy
Office of Inspector General
1000 Independence Avenue, SW
Washington, DC 20585

Re: Draft Audit Report entitled "The Department of Energy's American Recovery and Reinvestment Act – California State Energy Program," May 2011

Dear Mr. Collard:

This is in response to your letter dated May 2011, seeking the Energy Commission's comments on the subject draft audit report. In this report your office identifies three areas of concern with the Energy Commission's administration of the State Energy Program (SEP) funds to date: SEP Spending Delays, Program Safeguards and Program Impacts. We address each of these concerns below.

SEP Spending Delays

The Energy Commission remains committed to meeting the federal targets and deadlines for the SEP and believes that it is on pace to fully expend all SEP funds ahead of the April 30, 2012 deadline specified in the SEP grant award. We have identified options in the event any unused SEP funds need to be redirected or spent quickly. These options include redirecting unused funds to the Energy Commission's Energy Upgrade California (EUC) program, Energy Conservation Assistance Act (ECAA) loan program and/or State Energy Efficient Appliance Rebate (SEEARP) program. Each of these Energy Commission programs has the potential to utilize and spend down additional funding. Should the need to redirect SEP funds arise, the Energy Commission is prepared to move quickly to secure any necessary Department of Energy approvals to redirect and utilize the funds ahead of the April 30, 2012 deadline.

Program Safeguards

The Energy Commission has instituted a number of processes, procedures, and safeguards to properly monitor subrecipients and avoid or mitigate the potential for fraud, waste and abuse. To date, the Energy Commission has completed the following steps in our efforts to better safeguard the SEP ARRA funds:

- Worked closely with Perry-Smith, the contractor hired by the Energy Commission to audit its internal controls and provide risk assessments on the organization and our

ARRA subrecipients. Perry-Smith has completed a risk assessment of all ARRA-funded projects and selected 100 projects for review. This large sample group accounts for approximately 33% of all ARRA-funded projects. Audits will begin in June 2011.

- Provided Financial Accountability Training for all Energy Commission Project Managers, September 2010. The training included detailed instructions on maintaining project file documentation, invoice review and approval, and progress reporting.

- Created Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Toolboxes for Energy Commission Project Managers and ARRA subrecipients, September 2010. These toolboxes assist both Energy Commission project managers and subrecipients in compliance with Davis-Bacon Act requirements. These toolboxes are available on the Energy Commission website as a reference tool.

- Provided Program Information Management System (PIMS) Invoice Processing Training for all Energy Commission Project Managers, October 2010. All ARRA funded agreements are tracked on PIMS, a project management and tracking system designed to provide a current status of all ARRA projects including funds expended to date, invoices received and paid, invoices pending review and payment and work products completed.

- Provided Davis-Bacon Act Training for all Energy Commission Project Managers, January 2011. The training provided an overview on the certified weekly payroll and wage determination processes. Project managers were instructed on what documentation subrecipients need to complete in order to gain DBA approval as well as their role in the approval process.

- Provided Onsite Monitoring Training and checklists for all Energy Commission Project Managers, February 2011. The checklists were developed to guide project managers with their onsite project monitoring efforts. The checklists instruct project managers to look for key project milestones and compliance with the various federal flow down provisions. Project managers are also prompted to ask specific questions to ensure the correct measures have been installed and are functioning properly.

- Created ARRA Buy American and Jobs Creation and Retention Reporting Tool Boxes for Energy Commission Project Managers and ARRA subrecipients, February 2011. These toolboxes provide subrecipients with compliance assistance and direct them to resources available for questions and examples. Both are also available on the Energy Commission website.

- Continue to provide training sessions on the Energy Commission ARRA Reporting System (CARS) for all Energy Commission Project Managers, (December 2009 - present). CARS is the primary data repository and reporting system designed to meet the federal OMB and Department of Energy reporting requirements. CARS tracks all ARRA subrecipients and includes data such as number and type of jobs created, estimated energy cost savings and project performance locations.

- Contracted with KEMA, Inc., to conduct programmatic/performance reviews and validation of data collected/reported from ARRA subrecipients. To date, KEMA has produced draft evaluation plans for six of the Energy Commission's ARRA-funded programs and produced two quarterly reports on ARRA program status.

Plans are currently underway for project closeout process training for Commission Project Managers; the training is expected to take place this summer.

Program Impacts

As of May 20, 2011, the Energy Commission has completed 1276 commercial and residential retrofits through its ARRA subrecipients. Currently, these subrecipients have 3128 projects underway and expect to complete 16,629 retrofits during the State Energy Program performance period.

The Energy Commission has taken significant steps to ensure its success in meeting the State Energy Program's targets and deadlines and has also established internal control processes and procedures to mitigate and avoid fraud, waste and abuse, and has made significant progress in implementing program agreements and commencing retrofit work throughout the state of California. Thank you for the opportunity to respond to your draft audit report. If you have questions please contact Mark Hutchison, Deputy Director of Administration at (916) 654-6718.

Sincerely,

Melissa Jones
Executive Director
California Energy Commission

IG Report No. OAS-RA-11-10

CUSTOMER RESPONSE FORM

The Office of Inspector General has a continuing interest in improving the usefulness of its products. We wish to make our reports as responsive as possible to our customers' requirements, and, therefore, ask that you consider sharing your thoughts with us. On the back of this form, you may suggest improvements to enhance the effectiveness of future reports. Please include answers to the following questions if they are applicable to you:

1. What additional background information about the selection, scheduling, scope, or procedures of the inspection would have been helpful to the reader in understanding this report?

2. What additional information related to findings and recommendations could have been included in the report to assist management in implementing corrective actions?

3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?

4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report which would have been helpful?

5. Please include your name and telephone number so that we may contact you should we have any questions about your comments.

Name ______________________________ Date ______________________________

Telephone __________________________ Organization ________________________

When you have completed this form, you may telefax it to the Office of Inspector General at (202) 586-0948, or you may mail it to:

Office of Inspector General (IG-1)
Department of Energy
Washington, DC 20585

ATTN: Customer Relations

If you wish to discuss this report or your comments with a staff member of the Office of Inspector General, please contact Felicia Jones at (202) 253-2162.

This page intentionally left blank.

The Office of Inspector General wants to make the distribution of its reports as customer friendly and cost effective as possible. Therefore, this report will be available electronically through the Internet at the following address:

U.S. Department of Energy Office of Inspector General Home Page
http://www.ig.energy.gov

Your comments would be appreciated and can be provided on the Customer Response Form.