



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

Audit Report

The Department of Energy's
Industrial Carbon Capture and
Storage Program Funded by the
American Recovery and
Reinvestment Act



OAS-RA-13-15

March 2013



Department of Energy
Washington, DC 20585

March 21, 2013

MEMORANDUM FOR THE SECRETARY

FROM: 
Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: Audit Report on "The Department of Energy's Industrial Carbon Capture and Storage Program Funded by the American Recovery and Reinvestment Act"

INTRODUCTION AND OBJECTIVE

The Department of Energy received nearly \$1.5 billion through the American Recovery and Reinvestment Act of 2009 (Recovery Act) to invest in clean industrial technologies and sequestration projects through the Industrial Carbon Capture and Storage Program (Carbon Program). The National Energy Technology Laboratory awarded 46 cooperative agreements to a variety of demonstration and research and development projects. The agreements required substantial involvement by Federal project managers and relied on recipients, such as private industry and universities, to share in the investments needed to complete the projects. As of February 2013, more than 2 years after the Carbon Program had fully obligated its Recovery Act funding, only about \$623 million, or less than 42 percent, of the funds had been spent.

Previous Office of Inspector General reviews identified weaknesses in the Department's management of financial assistance awards. For instance, our audit report on *Management of Fossil Energy Cooperative Agreements* (DOE/IG-0692, July 2005) found that the Department had not always provided adequate monitoring and oversight of cooperative agreements, and Federal project officials had not always taken sufficient action to address project management or financial shortcomings. In response to the report, the Department committed to address the weaknesses highlighted in our report. In light of previous concerns and the significant amount of Recovery Act funding, we initiated this audit to determine whether the Department had effectively and efficiently managed the Carbon Program.

RESULTS OF AUDIT

We found that the Department had not always effectively managed the Carbon Program and the use of Recovery Act funds. In particular, our review of the Carbon Program, including 15 recipients awarded a total of approximately \$1.1 billion, revealed that the Department:

- Had not adequately documented the approval and rationale to use \$575 million of the \$1.1 billion that we reviewed to accelerate existing projects rather than proceeding with new awards as required by Federal and Department policies. Even when program officials provided explanations regarding the selection process, our review of available documentation revealed evidence that was either inconsistent with or did not otherwise support their assertions.

- Reimbursed recipients approximately \$16.8 million without obtaining and/or reviewing adequate supporting documentation. Yet, we were able to identify, for one recipient, over \$2.4 million in costs charged to the project that were questionable and/or unallowable. Despite a Department prohibition against reimbursing requests for pre-award costs, the Department reimbursed more than \$1 million in such costs. In addition, the Department reimbursed approximately \$14.4 million for costs incurred by three other recipients even though the costs were not substantiated by supporting documentation such as invoices.
- Awarded three recipients over \$90 million in Recovery Act funding even though the merit review process identified significant financial and/or technical issues. For example, the Department awarded more than \$48 million to one recipient whose financial condition precluded it from obtaining a satisfactory merit review score. Rather than addressing the underlying issues, the Department accepted increased risk and lowered the recipient's required cost share. At the time of our review, the recipient had been unable to raise even the reduced required cost share contribution, increasing the risk that the project's goals may not be realized. We noted that 2 years after award, the three recipients had only spent about \$7 million and experienced delays finalizing agreements due to problems meeting financial commitments and overcoming technical issues impacting the scope of work for the projects. The challenges precisely paralleled the initial concerns raised during the merit review process.
- Had not ensured that recipient subcontractor or vendor selections for goods and services represented the best value to the Government. Specifically, for three recipients we reviewed, the Department had not reviewed contracting actions totaling over \$4.1 million to ensure that the selections were arm's-length transactions and did not comprise conflicts of interest. To cite the relevant concerns with the Department's inaction, we identified transactions totaling over \$1.4 million in which one recipient contracted with an affiliated company that had representatives on its own Board of Directors.

The issues we identified occurred, in part, because program officials had not always provided effective monitoring and oversight of recipient activities. Specifically, the Department had not implemented certain performance monitoring controls that would have allowed for more thorough reviews of costs prior to reimbursement. For example, despite indications to the contrary, the Department allowed some recipients to remain on a "draw down" method of reimbursement, a practice in which no supporting documentation was reviewed prior to payment.

In addition, we found that policies and procedures related to managing the Carbon Program were either not developed or not fully implemented. For instance, the Department had not developed formal policies and procedures requiring officials to evaluate or seek resolution of apparent related party transactions or potential conflicts of interest apparent in awardee-substituted materials. An underlying cause of ineffective oversight was the approach Department officials took in monitoring these agreements. The responsible Federal officials indicated that their involvement under cooperative agreement financing instruments was limited to technical monitoring rather than financial oversight of projects. However, cooperative agreements, by definition, require the substantial involvement of the Department, including enhanced oversight and stewardship responsibilities, specifically including reviews of financial performance. Thorough reviews of procurement practices and costs may have identified certain weaknesses

noted in our report, including potential conflicts of interest and inadequate competition. Finally, despite Federal and Department policies requiring that significant decisions be documented, program officials had not maintained records related to decisions to allocate funds to accelerate existing projects.

Notably, the Department expeditiously obligated all of its Carbon Program funds to comply with the time constraints of the Recovery Act. These projects represented an investment in the development of clean coal technologies which was unprecedented in terms of cost and scope. Yet, despite the magnitude of the effort, the issues discussed in our report could, if unresolved, impact the ability of the Carbon Program to meet its objectives and the goals of the Recovery Act. As noted in our report, we identified up to \$18.3 million in questionable reimbursement claims that were approved by the Department for just the limited sample of awards reviewed. With approximately \$860 million in Recovery Act Carbon Program funds yet to be spent, we believe the Department still has an opportunity to implement needed program enhancements and internal controls designed to increase the likelihood of a successful outcome. As such, we have made recommendations designed to improve the Department's implementation of the Carbon Program.

MANAGEMENT REACTION

Management concurred with three of the four recommendations in our report and indicated that it had initiated and/or taken corrective actions to address our findings. Management did not agree that procedures should exist related to identifying and documenting potential conflicts of interest. In particular, management indicated that it was the recipients' responsibility to identify and mitigate conflicts of interest using plans or policies specific to the organization. While we agree with management's position that recipients have a duty to identify and mitigate conflicts of interest, program managers also have responsibilities in this case. Specifically, Federal and Department regulations require the Department to review costs for related party transactions, including potential conflicts of interest and arm's-length transactions. Management's comments and our responses are summarized and more fully discussed in the body of the report. Management's comments are included in their entirety in Appendix 4.

Attachment

cc: Deputy Secretary
Acting Under Secretary of Energy
Assistant Secretary for Fossil Energy
Chief of Staff

**REPORT ON THE DEPARTMENT OF ENERGY'S INDUSTRIAL
CARBON CAPTURE AND STORAGE PROGRAM FUNDED BY THE
AMERICAN RECOVERY AND REINVESTMENT ACT**

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THE DEPARTMENT OF ENERGY'S INDUSTRIAL CARBON CAPTURE AND STORAGE PROGRAM FUNDED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT

CARBON CAPTURE AND STORAGE PROGRAM

Our review found that the Department of Energy (Department) had not always effectively managed the Industrial Carbon Capture and Storage Program (Carbon Program) and the related use of the American Recovery and Reinvestment Act of 2009 (Recovery Act) funds. Specifically, the Department had not documented significant program decisions when awarding Recovery Act funds to accelerate existing projects. In addition, recipients claimed costs that were questionable and/or unsubstantiated and the Department reimbursed such costs. The Department also awarded Recovery Act funds to recipients that had technical and/or financial issues identified during a merit review process – issues that resulted in schedule and/or scope changes that may impact the ability of the Carbon Program to meet intended goals. Furthermore, procurement practices supporting the program were not always adequate to ensure that recipients' subcontract or vendor selections were appropriate and in accordance with relevant policies and procedures.

Acceleration of Existing Projects

Our review identified several issues related to the Department's use of Recovery Act funds to accelerate existing projects. Recovery Act guidance stipulated that funds be awarded to competitively selected projects within the Carbon Program. We found, however, that management awarded about \$575 million non-competitively by accelerating existing projects. Although the Department documented its rationale in some instances, we determined that the documentation either negated or did not fully support a number of management's assertions.

Program officials did not provide detailed documentation to support decisions to provide significant Recovery Act funds to existing projects despite our numerous requests. Instead, officials told us that the Department had not received the number of applications anticipated under the competitive solicitation and determined that issuing another solicitation was not feasible due to time constraints to obligate Recovery Act funding by September 30, 2010. Therefore, a decision was made to use approximately \$575 million of Recovery Act funding to advance existing, previously competitively selected projects that could contribute to carbon capture and storage research and development. Program officials stated that they worked with the Office of Management and Budget and Congressional staff to obtain approval for the decision to allocate the funds to existing

projects. In addition, individuals we spoke with asserted that funding decisions were made by senior level officials at Headquarters and were outside of their control. Department officials, however, did not develop or failed to maintain documentation supporting these decisions. Failure to develop and/or maintain such documentation contradicted Federal¹ and Department² policies that require documentation demonstrating steps taken to finalize a decision be maintained, including research conducted and input from other organizations participating in the decision process.

Lacking documented rationale for selecting projects, we were not able to validate the basis for funding the projects. For example, program officials told us that they considered all projects in the Office of Fossil Energy's portfolio to develop a listing of projects to accelerate that would most benefit the Carbon Program's goals. Through an iterative process that included daily teleconferences, the program identified 30 projects to receive additional funding. We noted, however, that the results of discussions were not recorded, and we could not obtain detailed documentation demonstrating the analysis used to justify the selections. For one of the awards we evaluated, \$71 million was provided to an existing project based on the Department's belief that expanding the project would reduce capital costs, improve the efficiency of the technology and accelerate the development schedule by 3 years. Because the Department had not developed or did not retain detailed analyses or documentation to support the assertions related to this and other similar projects, we were unable to objectively determine whether the projects selected were the most beneficial or in the best interest of the Government.

While program officials described the rationale for the reallocation of funds or subsequent project selections, our review of available documentation contradicted a number of those assertions. For example, officials indicated that a key consideration for selecting projects to accelerate was whether the projects were previously awarded through a competitive solicitation process. However, we noted instances in which this had not occurred. In particular, we found that the Department awarded additional funding for one recipient even though the project had not been competitively selected and had a history of poor performance. The Department indicated that the project was not subject to competition; however, the predecessor award had gone through such a process in 1999. While true, the prior award had a different scope of work and a

¹ 36 Code of Federal Regulations Subchapter B 1222.22 (e) and 1222.10 (b)(4)

² Department of Energy Records Management Handbook, Chapter IV (12)(h) and (12)(h)(4)

significantly smaller project cost. In addition, the company's management structure had changed during the intervening time. In another case, we noted that the Department asserted that it had accelerated a recipient's project by providing an additional \$20 million, citing similar reasons as in the previous example. However, the project began to fall behind after receiving the additional funding, and was 1 year behind schedule at the time of our review. In summary, despite Recovery Act guidance that stated projects should be competitively selected, we found that the Department had awarded over \$500 million to eight existing projects that had not been subjected to contemporaneous competition. Based on the inconsistencies we identified, we were unable to fully assess the competitiveness of the awards.

Questioned Costs

The Department approved questionable and/or unallowable reimbursement claims and cost share contributions for 4 of the 15 recipients we reviewed. In particular, for one recipient, our examination of records identified over \$2.4 million in costs charged to the project that were questionable or unallowable. For the other three recipients, we noted that the Department approved approximately \$14.4 million in cost reimbursements without obtaining and reviewing adequate documentation to substantiate the costs. Specifically:

- For one recipient, our evaluation identified more than \$2.4 million in questionable and/or unallowable costs charged to the project. Contrary to a Department memorandum prohibiting the recipient from being reimbursed for pre-award costs, we found that the recipient was reimbursed for more than \$1 million in such costs. In addition, we identified over \$770,000 in bonuses that were paid to employees over 3 years, including more than \$340,000 in the first quarter of 2012. Although required by Federal regulations³, we noted that justification supporting the basis for the bonuses had not been documented. Finally, we questioned an additional \$600,000 related to various activities, including reimbursements for interest and penalties on underpaid taxes, legal fees associated with valuation of company stock, and other costs related to travel and employee meals that were specifically unallowable under Federal regulations.⁴ In response to our

³ 48 Federal Acquisition Regulations System Part 31 Section 205-6 (f)(1)(ii)

⁴ 48 Federal Acquisition Regulations System Part 31

review, the Department indicated that it had initiated actions to recover unallowable costs identified for this recipient.

- For another recipient, the Department had not obtained detailed documentation substantiating approximately \$10.1 million in funding reimbursed to the recipient. To enhance controls, the recipient was placed on a "request for reimbursement" method of payment in 2010, which required invoice backup to be submitted to the Department prior to approval and disbursement of funds. We found, however, that the documentation submitted as part of the reimbursement requests lacked supporting evidence such as vendor invoices or receipts for equipment purchases. In addition, we reviewed documentation for a limited sample of transactions and determined that almost one-third of the items contained questionable or unallowable costs. Without adequate supporting documentation, we were unable to determine the allowability and reasonableness of all costs charged to the project. As such, we questioned approximately \$10.1 million in costs claimed under the award.

In response to our review, Department officials requested backup documentation from the recipient to support the questioned costs. While we recognize the Department's efforts to resolve the questioned costs identified, we do not believe the documentation provided was sufficient to determine the allowability of costs charged to the Department. For example, we noted that the Department did not obtain documentation for all cost categories such as labor and travel, among other things. In addition, we identified instances in which the recipient charged estimated costs to the project instead of actual costs incurred, resulting in overcharges of about \$1 million. Further, the recipient had not passed along discounts to the Department as required by Federal regulations.⁵ Given that over \$60 million in Recovery Act funding remained to be spent by the recipient, we believe it is imperative for the Department to obtain and review sufficient documentation to determine whether costs charged to the project are allowable, reasonable and in accordance with Federal regulations.

⁵ 48 Federal Acquisition Regulations System Part 31 Section 201-5

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- The Department reimbursed a third recipient about \$3.7 million, or 74 percent of the award, even though documentation submitted to the Department lacked evidence that the costs claimed corresponded to the items in the approved project budget. Although the recipient had not responded to a prior request by the Department for detailed documentation concerning the project's progress, additional funding through the Carbon Program was provided in September 2010 to expand work under an existing award. After receiving the additional funds, the recipient did not respond to numerous requests from program officials for documentation or questions related to the scope of work. Notably, officials suspended the award in January 2012 because the project was behind schedule, and the recipient failed to meet key deliverables. Department officials indicated that they were working with the recipient to recover unallowable costs. Until such time that all of the questionable costs have been repaid, we continue to question approximately \$3.7 million in costs reimbursed by the Department.
 - For a fourth recipient, the Department reimbursed the full Government share, approximately \$573,000, even though the recipient had not met the terms of its award. Specifically, we found that the recipient had not provided its portion of the agreed-upon cost share or submitted a final report describing the results of its efforts. While Department officials were aware of these issues for over 2 years and stated that they had made attempts to obtain the report, they had not taken action to cancel the award or recover any of the reimbursed funds. Until the recipient completes the requirements of the award and provides its full amount of cost share contributions, the Department remains at risk of paying more than its agreed-upon share of project costs. Furthermore, similar to the recipients previously mentioned, we were unable to verify that costs claimed corresponded to budgeted amounts because documentation submitted to the Department as part of the reimbursement request did not contain supporting evidence. Therefore, we questioned the \$573,000 in total costs claimed under the award.

In summary, we questioned reimbursements of up to \$16.8 million at four of the recipients reviewed (see Appendix 1). Management commented, in response to our report, that it had taken action to begin recovering the questioned costs identified in our report, as

appropriate. Until all questionable costs are resolved, however, the Department remains at risk of paying more than necessary for activities supporting the Carbon Program.

In addition to the previous examples, we also identified concerns related to another recipient's ability to meet agreed-upon cost share contributions. Specifically, the scope of the recipient's work under its award covered tasks for two projects – one of which was for a carbon dioxide compressor used to support carbon storage that was to be completed by November 2012. The other was for an engine power-wheel to be completed by December 2013. Although the Department considered the award to be one project, our analysis separated the projects because of differing cost share percentages and scopes of work. As of April 2012, the recipient had drawn down the full \$20 million of the Department's cost share for tasks related to its compressor project, leaving approximately \$10.4 million to be contributed by the recipient to complete the work.

Based on our analysis of existing financial documentation and future commitments for financial support at the time of our review, we estimated that the recipient may encounter a funding shortfall of at least \$4.3 million (41 percent) of the total contribution for the compressor work. Under the current method of reimbursement in which the recipient was not required to submit documentation for review and approval, the Department lacked controls to ensure that Recovery Act funds drawn down by the recipient for the engine work will not be used to cover the shortfall. In fact, our review identified an instance in which the recipient drew down over \$777,000 more than the amount authorized by the Department at that time. Management confirmed that the recipient had drawn down more than the amount authorized at the time, but noted that corrective actions had been taken to address the issue. Without additional monitoring, however, there is an increased risk that the Department may pay more than its agreed-upon share of the project's costs.

Subsequent to our field work, the recipient requested and the Department approved an extension to the compressor project's period of performance and reallocated funds that would allow the recipient additional time to meet its cost share. In response to our review, management indicated that it did not share our concern regarding the recipient's ability to meet its cost share commitment based on these actions. Management also stated that recipients are required to notify the Department if they are unable to meet the cost share and if not, recipients must reimburse the Department the proportionate share of project costs. Given that the recipient

already exhausted the compressor project's Government's cost share and the project was a year behind schedule, we continue to believe that the recipient may be unable to meet its cost share commitment, increasing the risk that the scope of work may not be completed.

Project Risks and Recovery Act Goals and Objectives

We found that three recipients received funding even though the merit review process performed prior to award identified significant financial and/or technical issues. The projects, which were awarded over \$90 million in total, experienced delays related to finalizing awards due to problems meeting financial commitments or overcoming technical issues. At the time of our review, the recipients had only spent about \$7 million of the projects' funds. Specifically:

- The Department awarded one recipient more than \$48 million even though merit reviewers identified significant financial issues. As noted during the merit review, the low score was assigned based on uncertainty surrounding the recipient's ability to raise its cost share, combined with the fact that the organization and its parent company had experienced annual operating losses since their inception in 2007 and 2004, respectively. Rather than addressing the underlying issues related to the risks, the Department elected to accept the merit review's recommendation to lower the recipient's required cost share from 60 percent to 20 percent, or a reduction of over \$24 million.

Despite lowering the required cost share, the recipient was ultimately only able to raise \$4.6 million of the \$12.1 million needed for its cost share, further increasing the risk that the project's goals may not be realized. As a result of financial problems, the recipient experienced schedule delays that increased the risk that intended goals and objectives would not be met. Specifically, even though the period of performance for the award was October 2010 through September 2014, work on the project's second phase had not commenced as of July 2012 and was nearly 2 years behind schedule. In fact, we noted that negotiations on budget and scope had yet to be finalized between the Department and the recipient.

Based on the original period of performance of 48 months, we determined that the delays to the project would likely

extend the completion date beyond the expiration of Recovery Act funds. All Recovery Act funds may not be spent because the project's scope and budget had not been finalized, and because the second phase, which included construction and a majority of the funding, could not begin. At the time of our review, the recipient had only expended \$2.5 million (5 percent) of its award.

- For another recipient, we noted that the project was awarded and had fully obligated \$25 million by August 2010 even though it had been given a low technical score during a merit review. Although the merit review identified major technical issues, the recipient was still recommended for selection because reviewers believed that it had the ability to promote and enhance the objectives of the Recovery Act in an expeditious manner, especially job creation, preservation and economic recovery in spite of its technical shortcomings.

We found, however, consistent with the identified technical issues, the project suffered a number of problems during execution. For instance, the scope of the project had been significantly reduced, and the proposed creation of 272 jobs may not be realized. In fact, only 68 jobs had been created as of July 2012. In addition, the Department reduced the recipient's cost share from \$92.6 million to \$11.6 million (87 percent decrease) even though the high cost share was a significant factor in project selection because it had not met the technical criteria specified in the funding opportunity announcement.

Similar to other recipients, we determined that this project's goals and objectives were also at risk of not being met. In particular, we found that the terms and conditions of the project had not been fully defined almost 2 years after award. At the time of our review, the recipient still had not raised its required cost share and, therefore, could not proceed into project construction. As of July 2012, the project was already 7 months behind schedule, and the Department's project manager indicated that the recipient's Engineering, Procurement and Construction firm may withdraw from the project if construction did not start soon, thereby putting the project even further behind schedule and increasing the risk that it would not be completed before the expiration of Recovery Act funds. As of July 2012, the recipient had expended only about \$4.4 million, or less than 18 percent of the award.

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- We found that a third recipient's project was at risk of not meeting its intended goals and objectives. The recipient, as with the other project previously mentioned, was recommended for selection even though it had earned a low technical score. While major weaknesses related to technical aspects were identified, the project was selected to receive about \$20 million based on its ability to expeditiously promote Recovery Act objectives and create a large number of jobs, as well as its proposed cost share contribution of 50 percent.

Nearly 2 years after the award and obligation of funds, the project still had not been definitized because the Department had not yet resolved technical issues with the recipient, including proposed revisions to the project partner and location of work. While the Department had extended the period of performance, we found that the recipient had only spent about \$125,000 at the time of our review, and the project may not be completed by the end of the Recovery Act if delays continue.

To its credit, the Department divided these projects into sub-phases as a control measure to mitigate the risks associated with each recipient, and to prohibit recipients from spending funds until technical milestones were achieved. The Department also delayed definitization of each award until recipients could raise cost share and/or negotiations regarding the scope of work were completed. Further, the Department considered alternatives, such as segmenting projects into modules, to allow additional time to raise cost share or to finalize preliminary design efforts and allow some work to begin while negotiations continued.

Procurement Practices

Recipient procurement practices supporting the Carbon Program did not always adequately ensure that subcontractor or vendor selections made by recipients represented the best value to the Government and were in accordance with relevant policies and procedures. Specifically, three recipients that we reviewed had not always documented their selections or sole source justifications, especially for instances in which the selections did not represent arm's-length transactions. In total, we identified over \$4.1 million in recipient procurements that involved potential conflicts of interest. In each case, the recipients had provided information about the relationships to the Department that went undetected. In particular:

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- Contrary to Federal regulations⁶ and its own procurement policies designed to promote competition and cost efficiencies, one recipient had not documented results of vendor selections or sole source justifications. The recipient's procurement manager stated that he had relied on engineers to justify selections. This concerned us because we identified transactions totaling over \$1.4 million in which the recipient contracted with an affiliated company that had representatives on its Board of Directors. While we noted that evidence of the relationship was contained in the recipient's award documentation, it was not questioned by the Department. Consequently, we could not determine, and the Department lacked assurance, that goods and services were procured from the most qualified sources at the best price available. Until such time that the costs have been reviewed, we are questioning over \$1.4 million in related party transaction costs.
 - For a second recipient, documentation did not exist to support procurement transactions that involved a potential conflict of interest. In particular, we found that the recipient's owner was also a co-owner, along with other members of his family, of a company that was performing work on the project and had received approximately \$60,000 as of the time of our review. Given the close relationship of the parties, these transactions raised concerns because neither we nor the Department could determine if the services were procured at the best price available. In our view, evidence of the related party transactions included in the request for reimbursement packages sent to the Department, including lists containing employee last names common to both companies, should have led to questions about the relationship and the reasonableness of the costs. While we question the \$60,000, these costs were previously included in our analysis of questionable costs.
 - The owner of a third recipient also owned the project's primary vendor that had received about \$2.7 million, or more than 50 percent of the available Carbon Program funding. Similar to the examples previously mentioned, documentation demonstrating the justification for selecting this vendor was not available; therefore, we could not determine if the services were procured at the lowest

⁶ 10 Code of Federal Regulations Part 600 Sections 600.311 and 600.331 (a) and 48 Federal Acquisition Regulations System Part 31 Sections 31.201-2(d) and 31.201-3

available cost. Had a thorough review of documentation included in requests for reimbursement been conducted, evidence of the possible conflict of interest may have been identified and resulted in questions about the relationship and reasonableness of costs. For instance, we found that invoices submitted to the Department contained the same address for both the prime recipient and the recipient's vendor. While we are questioning the \$2.7 million, these costs were previously included in our analysis of questionable costs.

In response to our review, the Department indicated that it had reviewed the transactions associated with the \$60,000 in costs noted in our report and concluded that the amounts paid were reasonable for the services provided. The Department stated that it would review the other two projects discussed above for cost reasonableness. While this is a positive step, we remain concerned that similar transactions may occur because the Department failed to identify and/or question costs even though evidence of potential conflicts of interest was provided in the reimbursement requests.

Other recent Office of Inspector General efforts identified similar issues related to recipient procurement practices and the identification of conflicts of interest. For instance, our audit report on *The Department of Energy's Clean Cities Alternative Fuel Vehicle Grant Program Funded under the American Recovery and Reinvestment Act* (OAS-RA-12-12, May 2012) found that the Department had allowed recipients to award funding without documenting decisions to award contracts and/or identifying potential conflicts of interest as required by Federal procurement regulations.

Performance Monitoring and Policies and Procedures

The issues we identified occurred, in part, because program officials had not always provided effective monitoring and oversight of recipient activities. Specifically, the Department had not implemented certain performance monitoring controls that could have allowed for more thorough reviews of costs prior to reimbursement. In addition, we found that policies and procedures related to managing the Carbon Program were either not developed or not fully implemented.

Monitoring of Recipients

The Department had not implemented certain performance monitoring and oversight controls that could have allowed for more thorough reviews of costs prior to reimbursement and been used to identify questionable and/or unallowable costs. For

instance, the Department allowed two projects in our sample to remain on a method of reimbursement that permitted recipients to draw down funds from the Department without submitting supporting documentation for approval. While the Department had the authority to request invoice backup at any time for one of the recipients, we found that it had neither requested nor reviewed any invoice backup to support claimed costs. In addition, although terms and conditions of the awards required recipients to provide support for reimbursement claims, the Department's review of requests for reimbursement from three of the recipients previously mentioned was not sufficient to ensure that all costs were reasonable and appropriately documented. Although the Department's Project Manager and Contract Specialist were responsible for reviewing requests for reimbursement and cost share contributions for reasonableness and allowability, our review identified that the Department had approved cost reimbursement requests without sufficient documentation to justify approval. While the Department asserted that it had reconciled the amounts billed under each award to ensure they aligned with approved budgets and technical progress, documentation we reviewed provided no evidence to demonstrate that reconciliations were performed. Furthermore, the Department had not exercised its authority under the terms of two of the awards to obtain additional backup documentation. A Department official indicated that certain types of information, such as timecards, were not requested due to perceived liability concerns related to protecting personally identifiable information.

In addition, the Department had not ensured that reviews of recipients' controls over accounting practices designed to identify irregularities were conducted in a timely manner. In particular, program officials relied on the results of a Defense Contract Audit Agency (DCAA) audit of incurred costs claimed from Fiscal Years 2004 – 2005 for one recipient to determine whether indirect rates were reasonable and the accounting system was adequate. At the time of our review, however, the Department had not requested a follow-up audit of the recipient's accounting system despite an increase in the scope and size of the award as well as changes in company's structure. A follow-up review may have identified many of the same issues noted in our report. For another recipient, a 2010 DCAA review identified significant weaknesses related to the ability to accumulate and bill costs to Government contracts. The Department, however, had not ensured that compliance reviews of internal controls required by 10 Code of Federal Regulations Part 600 were conducted to ensure that weaknesses were corrected.

Furthermore, we noted that the Department waived cost/price analyses required by the Department's Federal Project Management Center for several recipients despite uncertainties related to their financial positions. Cost/price reviews are designed to determine the reasonableness of proposed budgets and details of cost share contributions. Under the Federal Project Management Center's guidelines, a comprehensive cost/price analysis must be performed to assess specific items of costs for any negotiated award anticipated to be in excess of \$15 million. However, Department officials indicated that based on the pressure to obligate Recovery Act funds in a timely manner, a number of projects had not received a cost/price review prior to award. Additionally, officials indicated that while in the past they had relied on the DCAA to conduct reviews of recipients, there had been a significant backlog of DCAA reviews since 2008, and the Department was unable to obtain the reviews prior to making awards. However, we noted that the Department had a contract with an independent public accounting firm that was available to programs for obtaining, among other things, cost/price reviews under the Recovery Act. Had such reviews been completed, the Department may have been able to identify weaknesses related to questionable costs and/or the recipients' ability to meet cost share obligations.

Finally, while program officials generally performed site visits to recipients, we found that these visits focused on technical aspects of the projects and had not included reviews of compliance with Federal procurement requirements or cost documentation. Contract specialists – the Department officials responsible for approving reimbursement requests – that we spoke with expressed concerns with being overwhelmed by their workload and did not have time to sufficiently review costs for every project. In preliminary comments on our report, officials noted that their substantial involvement was only required for technical oversight, not financial monitoring. Officials indicated that they relied on recipients to ensure compliance with Federal requirements and were concerned that they may be accused of negatively impacting the project's progress. However, cooperative agreements, by definition, require the substantial involvement of the Department including enhanced oversight and stewardship responsibilities such as reviews of financial performance. Thorough reviews of procurement practices and costs may have identified certain weaknesses noted in our report, including potential conflicts of interest and inadequate competition.

Policies and Procedures

The Department had not always developed and/or implemented policies and procedures for effectively managing administration of the Carbon Program. Specifically, we found that the program had not maintained records related to significant program decisions in accordance with regulations that could have supported the Department's decisions to accelerate existing projects or the rationale used to select projects to receive additional funding. Federal and Departmental policies require decisions of significant events to be documented and made available for examination. Due to the significant amount of funding awarded to existing projects, we believe that the Department's decision and selection process should have been formally documented to ensure that projects selected aligned with the goals of the Carbon Program. In addition, in light of the transparency and accountability requirements of the Recovery Act, a sound records management system was imperative to ensure that funds were spent in the best interest of the Government and taxpayers.

Even when policies and procedures were in place such as the selection criteria in the funding opportunity announcement, the Department had not consistently applied them to ensure effective management of the Carbon Program. Specifically, program officials selected recipients to receive funding as part of the merit review process even though the recipients did not meet established selection criteria designed to identify financial or technical issues that could impact the success of a project. As previously mentioned, three recipients received funding even though the merit review process identified significant financial and/or technical issues prior to being recommended for selection. The same recipients have experienced significant project delays that increased the risk that the projects may not be completed, objectives of the Carbon Program may not be met and Recovery Act funds may not be spent.

Finally, the Department had not developed formal procurement policies and procedures requiring officials to review funded projects for related party transactions or potential conflicts of interest⁷. According to Federal regulations⁷, the reasonableness of specific costs must be examined with particular care in connection with firms or separate divisions that may not be subject to effective competitive restraints, including consideration of arm's-length bargaining.

⁷ 48 Federal Acquisition Regulations System Part 31 Section 31.201-3(a) and, 31.201-3(b)

As noted in this report, even though evidence of related party transactions existed in documentation submitted to the Department for recipients we evaluated, the Department had not reviewed the information as required for such transactions to identify possible conflicts of interest and subsequently reimbursed the recipients without questioning the reasonableness of the costs. In addition, although the Department's guidance on Financial Assistance Awards⁸ required a consideration of the relationships among partnerships or consortiums during the award process, it did not have formal procedures requiring officials to review available information submitted by recipients regarding potential conflicts of interest. Furthermore, the Department had not established policies requiring a review of procurement practices to ensure selections made by recipients were appropriate and in accordance with relevant policies and procedures. Without adequate documentation, neither we nor the Department could determine whether subcontractor or vendor selections represented the best value to the Government.

Impact and Path Forward

In light of the issues we identified, we believe that Recovery Act and Carbon Program goals may not be achieved without implementation of corrective actions. Specifically, projects may not be completed, deliverables might not be received, job creation will not meet anticipated targets and Recovery Act funding could go unspent. During our review, we also identified approximately \$18.3 million in questioned and/or unallowable costs that should be resolved. Unsubstantiated cost reimbursements and cost share contributions increase the risk that the Department will pay more than its agreed-upon share of project costs. In addition, our review identified other issues such as inadequate procurement practices that increase the risk that the Department may not obtain goods and services at the best price available or from the most qualified sources. This is significant because of the \$1.5 billion in Recovery Act funding obligated to projects under the Carbon Program, over \$860 million, or approximately 58 percent, remains to be spent.

RECOMMENDATIONS

Due to the significant amount of funding that remains to be spent, the Department has an opportunity to enhance its path forward. To help achieve the objectives of the Recovery Act, we recommend that the Assistant Secretary for Fossil Energy direct Carbon Program officials to:

1. Enhance monitoring procedures, including evaluating recipient documentation to support costs claimed and ensuring that reviews such as audits of internal controls are conducted, as required;

⁸ Department of Energy Guide to Financial Assistance, Chapter 2 Section 2.5 (d)(1)

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2. Ensure that significant decisions supporting the Carbon Program are adequately documented; and,
 3. Develop and implement policies and procedures to ensure the Department conducts reviews designed to identify and mitigate potential conflicts of interest and enforce requirements pertaining to documentation of procurement decisions including reasons for sole source selections.

In addition, we recommend that the contracting officers for the Carbon Program:

4. Conduct a review of questioned costs identified in our report and determine whether the costs were allowable and reasonable.

**MANAGEMENT
REACTION AND
AUDITOR COMMENTS**

Management concurred with three of the four recommendations in our report and indicated that it had initiated and/or taken corrective actions to address our findings. Management agreed that cooperative agreements required substantial involvement and commented that it was committed to effective management of its cooperative agreements and strives to implement sound management practices with the proper balance of Federal stewardship. For instance, management stated that it will review project monitoring procedures to ensure that sound guidance exists for conducting consistent, thorough reviews of documentation supporting invoiced costs. In addition, management commented that it will issue a policy statement that significant programmatic decisions should be adequately documented. Furthermore, management noted that it had taken action to recover a portion of the questioned costs identified in our report and will recover the remaining costs, as appropriate. Although management concurred with the majority of our recommendations, it did not agree that the Department should implement procedures related to documenting procurement decisions and asserted that recipients were required to report potential conflicts of interest. Management also provided technical comments that have been addressed in the body of the report, where appropriate. We have summarized management's comments and our response to each. Management's comments are included in their entirety in Appendix 4.

Management commented that the Department was not required to competitively select projects under the Carbon Program and stated that the Recovery Act guidance cited in our report was not a statutory requirement. Management also asserted that, although

the decision to use Recovery Act funding to accelerate projects was made by senior Department officials who had since left the Department, we failed to obtain access to records supporting those decisions.

Our review determined that the Department used the Recovery Act guidance as criteria when developing its project operating plan and funding opportunity announcement for the Carbon Program. As a result of the Department identifying it as criteria for implementing the program, we believe that officials should have selected projects in accordance with the guidance. We take specific issue with management's comment that we failed to obtain records, which it implies were available. As noted in our report, we made numerous attempts to obtain supporting documentation related to management's decision-making process. However, the Department was unable to provide records demonstrating the formal approval to use funds to accelerate existing projects.

Management commented that the Department did not use merit review scores to exclude projects from selection and noted that selecting officials also consider program policy factors when deciding which projects should receive financial assistance. Management also asserted that the risk of projects falling behind schedule and not meeting goals or cost share requirements is a common risk that cannot be eliminated when funding novel demonstration and research and development projects.

As noted in our report, the Department awarded funds to recipients even though the merit review process identified significant technical and/or financial issues. While we recognize the Department's ability to consider other factors in the selection process and understand that projects such as those included in our review encounter various risks, we found that the financial and/or technical issues identified by the merit review for the recipients included in our evaluation ultimately led to delays in finalizing the awards. In light of the difficulties identified during the merit review process, we believe the problems highlighted in our report were reasonably predictable and placed the projects at significant risk for failure.

Management did not agree with our recommendation that the Department should develop and implement policies and procedures designed to identify and mitigate conflicts of interest or that it should enforce requirements pertaining to documentation of procurement decisions. Management stated that obtaining full documentation of pre-award decisions was neither practical nor required. In addition, management indicated that it was the

recipients' responsibility to identify and mitigate conflicts of interest using plans or policies specific to the organization and commented that recipients are required to provide assurance to the Department that conflicts of interest do not exist.

Although management disagreed with our recommendation, Federal and Department regulations require recipients to maintain documentation supporting all costs incurred under an award when funded with Federal monies, which would include support for procurement decisions such as the use of noncompetitive sub-awards. We agree that recipients have a duty to identify and surface conflicts of interest issues. The Department, however, is also required to review costs for related party transactions, including potential conflicts of interest and arm's-length transactions. The Department's guidance on Financial Assistance Awards also required a consideration of the relationships among partnerships or consortiums during the award process.

QUESTIONED COSTS

This chart summarizes the questioned costs identified in the report. As discussed in the report, the questioned costs related to pre-award costs, unsupported costs, unallowable costs and questionable costs associated with related party transactions. These costs were discussed in the Questioned Costs and Procurement Practices sections of the report.

| Example | Questioned Costs |
|--|-------------------------|
| 1. Costs Incurred Prior to Award | \$1,082,000 |
| 2. Unjustified Bonuses Charged to Project | \$770,000 |
| 3. Unallowable Costs Charged to Project | \$600,000 |
| 4. Unsupported Costs Reimbursed to Recipient | \$10,100,000 |
| 5. Costs Not Corresponding to Approved Budget | \$3,700,000 |
| 6. Unsupported Costs and Final Deliverables Not Received | \$573,000 |
| Sub-total | \$16,825,000 |
| 7. Costs Associated with Related Party Transactions | \$1,434,000 |
| Total | \$18,259,000 |

Appendix 2

OBJECTIVE To determine whether the Department of Energy (Department) effectively and efficiently managed the Industrial Carbon Capture and Storage Program (Carbon Program).

SCOPE This audit was performed between February 2012 and March 2013, at the National Energy Technology Laboratory (NETL) in Morgantown, West Virginia and Pittsburgh, Pennsylvania. In addition, we conducted site visits to three recipients in Bellevue, Washington; Monrovia, California; and Highland Heights, Ohio.

METHODOLOGY To accomplish the objective, we:

- Obtained and reviewed relevant laws and regulations related to implementation of the American Recovery and Reinvestment Act of 2009 and financial assistance award administration.
- Reviewed the Funding Opportunity Announcement for the Carbon Program as well as merit review information and selection documentation.
- Identified a universe of 46 active and/or closed cooperative agreements under the Carbon Program and reviewed award documentation for a judgmental sample of 15 awards that were selected based on recipient type and dollar coverage. For recipients included in our sample, we judgmentally selected financial transactions to review for questionable costs based upon reviews of recipient files.
- Conducted site visits to three recipients to discuss management of the projects, reviewed recipients' policies and procedures for tracking project costs and analyzed financial transactions related to the projects.
- Interviewed project managers and contract specialists for a sample of recipients to determine the roles and responsibilities related to monitoring of awards.
- Conducted interviews with NETL officials to discuss management of the Carbon Program.

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 objectives. We believe the evidence obtained provides a reasonable basis for our findings and

conclusions based on our audit objective. Accordingly, we assessed internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. We assessed performance measures in accordance with the *GPRA Modernization Act of 2010* and concluded that the Department had established performance measures related to the Carbon Program. 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. Finally, we conducted an assessment of computer-processed data relevant to our audit objective and found it to be reliable.

Management waived an exit conference.

PRIOR REPORTS

- Audit Report on [*The Department of Energy's \\$700 Million Smart Grid Demonstration Program Funded through the American Recovery and Reinvestment Act of 2009*](#) (OAS-RA-13-08, January 2013). This report found that the Department of Energy (Department) had not always managed the Smart Grid Demonstration Program effectively and efficiently. Specifically, the report identified weaknesses related to reimbursement requests, cost-share contributions and coordination efforts with another Department program. Further, the Department had not adequately reviewed financial transactions and planned for or monitored recipient cost-share provisions, resulting in about \$12.3 million in questioned costs.
- Audit Report on [*The Department of Energy's Clean Cities Alternative Fuel Vehicle Grant Program Funded under the American Recovery and Reinvestment Act*](#) (OAS-RA-12-12, May 2012). This report found that the Department had not always effectively managed the use of American Recovery and Reinvestment Act of 2009 funding and other post-award aspects of the Clean Cities Program. Specifically, the report identified issues pertaining to questionable reimbursements and cost share contributions, costs incurred prior to award and recipient procurement decisions that had not been documented as required by Federal regulations.
- Audit Report on [*The Department's Management of the Smart Grid Investment Grant Program*](#) (OAS-RA-12-04, January 2012). This report found that the Department had approved projects that used Federally-sourced funds to meet cost share requirements even though it was prohibited by regulation. In addition, the report noted that the Department had not always followed effective business practices when reimbursing grant recipients.
- Audit Report on [*The Advanced Research Projects Agency – Energy*](#) (OAS-RA-11-11, August 2011). This report found that the Advanced Research Projects Agency – Energy, an agency within the Department, had not drafted or, in some cases, approved draft policies and procedures in significant areas such as monitoring and oversight of awardees and the review of awardee invoices. The report noted that due to a lack of guidelines, the emphasis of monitoring and oversight activities, particularly during site visits, was on technical performance and not on business aspects of the awards such as the recipient's internal control structure. In addition, the report found issues regarding the consistency of documentation submitted by recipients.
- Audit Report on [*Management of Fossil Energy Cooperative Agreements*](#) (DOE/IG-0692, July 2005). This report found that the Office of Fossil Energy was not always adequately involved with monitoring and oversight of cooperative agreements, and Federal project officials had not always taken adequate action to address project management or financial shortcomings. The report noted that project officials had not performed needed reviews or waived requirements designed to ensure that the Government's interests were protected.

MANAGEMENT COMMENTS



Department of Energy
Washington, DC 20585

January 17, 2013

**MEMORANDUM FOR: RICKEY HASS,
DEPUTY INSPECTOR GENERAL FOR AUDIT AND
INSPECTIONS**

**FROM: CHUCK MCCONNELL,
ASSISTANT SECRETARY FOR FOSSIL ENERGY**

**SUBJECT: FE Comments on Draft Audit Report on "The Department of
Energy's Industrial Carbon Capture and Storage Program
Funded by the American Recovery and Reinvestment Act"**

The Office of Fossil Energy (FE) appreciates the opportunity to review the Inspector General's (IG) Draft Audit Report entitled, "The Department of Energy's Industrial Carbon Capture and Storage Program Funded by the American Recovery and Reinvestment Act (the ICCS Program)." FE welcomes the opportunity to work with the IG to improve business practices in our organization. FE is committed to effective management of its Cooperative Agreements and strives to implement sound management practices with the proper balance of federal stewardship. The IG identified a number of issues. DOE FE concurs with some findings but not with others. In the enclosed response along with attachment, we provide our assessment of the findings and corrective actions to be implemented where warranted.

BRIEF BACKGROUND

House Report 111-16 contained guidance from the conferees of the Senate and House of Representatives that DOE should use \$1.52 billion of the funds appropriated by the American Recovery and Reinvestment Act (Recovery Act) for "a competitive solicitation for a range of industrial carbon capture and energy efficiency improvement projects, including a small allocation for innovative concepts of beneficial CO₂ reuse." Consistent with that guidance, FE issued a competitive solicitation on June 8, 2009, entitled "Recovery Act: Carbon Capture and Sequestration from Industrial Sources and Innovative Concepts for Beneficial CO₂ Use," Funding Opportunity Number DE-FOA-0000015, that made available approximately \$1.322 billion for projects involving large-scale carbon capture and storage from industrial sources, and \$100 million for projects involving innovative concepts for beneficial carbon dioxide reuse. The solicitation referred to these two categories of projects as "Area of Interest 1" and "Area of Interest 2," respectively. The projects in these two categories comprise FE's ICCS Program, which is authorized by section 703 of the Energy Independence and Security Act, 42 U.S.C. § 17251.¹

¹ Senior FE officials decided to use approximately \$91 million of these funds to expand existing projects that had been competitively selected under previous competitive solicitations.

The solicitation was intended to result in awards to approximately 12 projects in each area of interest. Each award would have two phases; based on the results of the first phase, FE intended to select six projects in each area of interest to proceed to the second phase. FE made its selections for proceeding to phase 2 on July 12, 2010; it determined that only a total of nine projects (from both areas of interest) were suitable for continuation. Because there were many fewer projects than FE had anticipated proceeding to phase 2, approximately \$575 million of Recovery Act funding that FE had allocated to this solicitation remained unobligated. With insufficient time remaining for FE to complete another competitive solicitation,² FE recommended to DOE's Recovery Act team that these funds be obligated to existing FE research and development (R&D) projects that could accelerate achievement of the objectives of the Department's Clean Coal Research Program. This recommendation was accepted. Many but not all of these R&D projects had been selected on a competitive basis when they were first awarded DOE funding. If they were successful, they could produce new technologies that might facilitate carbon capture from industrial sources.

Summary of FE Assessment

DOE is committed to effective management of its ICCS and R&D programs and the cooperative agreements it awards under these programs. The audit made a number of findings and contained four recommendations. FE agrees with some of these findings and recommendations, but not all of them. FE has the following general responses to the audit report:

1. The conferees' guidance in House Report 111-16 that DOE use \$1.52 billion in Recovery Act funds for a competitive solicitation is not a statutory requirement. When phase 2 selections under the ICCS competitive solicitation failed to produce sufficient awards to obligate the entire \$1.52 billion, DOE decided to use the remaining funds for R&D and other projects relating to carbon capture, sequestration and beneficial use. This decision was made by senior DOE officials in consultation with the Office of Management and Budget. It is FE's understanding that the IG auditors failed to obtain access to the records of the senior officials who made these decisions but who are no longer with the Department.
2. The report states that some projects were selected for award even though they did not meet "minimum merit review financial and /or technical scores." The Department does not use minimum scores to exclude projects from selection. In addition to considering technical and financial scores, selecting officials consider program policy factors in deciding which projects should receive financial assistance.
3. The report states that a number of projects are falling behind schedule and may not meet their goals or their cost share requirements. This is a common risk when funding novel demonstration and R&D projects, and one that cannot be eliminated. Some of the projects will not reach completion. The remaining Recovery Act funds allocated to those projects will be returned to the Treasury.

The following are FE's responses to the report's specific recommendations.

RECOMMENDATION #1: *Enhance monitoring procedures, including evaluating recipient documentation to support costs claimed and ensuring that reviews such as audits of internal controls are conducted, as required.*

MANAGEMENT RESPONSE:

Project monitoring procedures will be reviewed to ensure sound guidance exists for conducting consistent, thorough reviews of documentation supporting invoiced costs. Additionally, FE has been

² Funds made available by the Recovery Act needed to be obligated no later than September 30, 2010.

conducting periodic invoice review training to ensure both project management and procurement staffs are well trained.

Section 316 audits are conducted on for-profit entities to ensure their compliance with internal procedures. The Department's guidance for completion of these specific audits has been issued and we are carefully monitoring and enforcing the requirement. Also, recommendations identified in the audits are being communicated to the recipients via Management Decision letters.

RECOMMENDATION #2: *Ensure that significant decisions supporting the Carbon Program are adequately documented.*

MANAGEMENT RESPONSE: FE concurs that significant decisions supporting the ICCS and other programs should be adequately documented. In the future, FE will issue a policy statement to this effect, and seek to obtain copies of such documentation from senior officials before they leave the Department.

RECOMMENDATION #3: *Develop and implement policies and procedures designed to identify and mitigate potential conflicts of interest and enforce requirements pertaining to documentation of procurement decisions.*

MANAGEMENT RESPONSE: DOE implements projects in accordance with 10 CFR Part 600. Regarding the documentation of recipient procurement decisions, these regulations provide for competition to the "maximum extent practical." FE notes that with regard to the recommendation for full documentation of pre-award decisions, it is neither practical nor required to have such procedures or receive such information.

Part 600 places the primary responsibility for identification and mitigation of conflicts of interest on the recipient using plans or policies specific to the organization. It also these projects to undergo audits, which include a review of potential financial conflicts of interest. FE has developed an award provision that requires an assurance from recipients regarding the absence of any potential conflicts of interest, and requires recipients to notify DOE of any new or modified subawards or contracts they make.

RECOMMENDATION #4: *Contracting Officers for the Carbon Program should conduct a review of questioned costs identified in our report and determine whether the costs were allowable and reasonable.*

MANAGEMENT RESPONSE: The report identifies \$2,973,000 in questioned costs and \$13,800,000 in unsupported costs. The two projects with questioned costs will be examined in detail by FE, determinations will be made and documented, and appropriate actions taken. Of the two projects with unsupported costs, \$3.7 million of the unsupported amount is associated with one project that has already been examined and the entire amount identified as improper. The Department has recovered some of these costs and is continuing to pursue recovery of the remainder. As for the second project (which accounts for the remaining \$10.1 million of unsupported costs), FE is gathering additional information, and once this review is completed, FE will take appropriate action.

ATTACHMENTS:

1. FE Responses to Specific Report Findings

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