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

Management Alert

The Status of Energy Efficiency and Conservation Block Grant Recipients' Obligations

OAS-RA-11-16 September 2011

Department of Energy

Washington, DC 20585

September 1, 2011

MEMORANDUM FOR THE SECRETARY

FROM: Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: Management Alert on "The Status of Energy Efficiency and Conservation Block Grant Recipients' Obligations"

IMMEDIATE CONCERN

Because of the unprecedented level of funding provided under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and the risks associated with spending such sums in a compressed period of time, the Office of Inspector General initiated a series of audits of the activities of the recipients of Department of Energy Energy Efficiency and Conservation Block Grants (EECBG). These audits disclosed that significant amounts of grant funds remained unobligated by recipients even though the Department's 18-month obligation deadline had been exceeded. Consequently, we expanded our work to determine more broadly the extent to which EECBG formula grant funds had not been obligated by recipients.

Confirming our initial concerns, the current examination disclosed that as much as $879 million, or 33 percent of the $2.7 billion allocated for formula-based EECBG grants, had not been obligated by the recipients. Our testing also revealed a number of apparent inaccuracies in data that Department officials used to monitor grantee obligations and spending. These issues undermine one of the basic premises of the Recovery Act, that is, to promptly stimulate the economy and create jobs. Further, given established deadlines to deploy these Recovery Act resources and the reality of the "ticking clock," pressure to expedite both obligations and expenditures significantly increases the risk that program safeguards, important to ensuring that taxpayer interests are protected, may be circumvented. Due to the urgency of addressing these matters, we are issuing this report as a Management Alert.

BACKGROUND

Under the Recovery Act, the EECBG Program received $3.2 billion to improve energy efficiency and reduce energy use and fossil fuel emissions. The Department's Office of Energy Efficiency and Renewable Energy allocated about $2.7 billion of the funds using a population-driven formula to over 2,000 entities including: states and territories; cities and counties; and, Indian tribes. The remainder, nearly $500 million, was directed to competitive grants and technical assistance activities. State recipients were required to allocate 60 percent of their grants to certain small localities.

EECBG agreements have a maximum performance period of 36 months and, in support of the Recovery Act's goal of immediate investment in the economy, the Department required grant recipients to obligate all funds within 18 months of the grant award date. Recipients are authorized to obligate funds when orders are placed, contracts and sub-grants are awarded and goods and services are received that will require payment by the recipient in the future. In our report "*The Department of Energy's Implementation of the Energy Efficiency and Conservation Block Grant Program under the Recovery and Reinvestment Act: A Status Report*" (OAS-RA-10-16, August 2010), we pointed out that 1 year after passage of the Recovery Act recipients had spent only 8.4 percent of the $3.2 billion authorized for the EECBG Program. In response to our report, Department officials indicated that the amount of funds obligated by recipients was a leading indicator for measuring the Program's success in meeting Recovery Act goals. Officials noted that a recipient's obligation of funds was a key step in starting projects and putting the money to work for the economy.

OBSERVATIONS AND CONCLUSIONS

Because of the delays in recipient spending, we found that use of the EECBG funds to stimulate the economy and create jobs, the primary purposes of the Recovery Act, had not been maximized, and the funds had not been effectively used to promote energy efficiency and conservation. We also identified troubling anomalies with grant obligation information reported by the recipients to the Department. These included obvious and unexplained errors such as the total of obligations and expenditures exceeding the amount of the grant award. In seeking to better understand these data anomalies, we found that Department officials had performed some verification of the reliability of obligation and expenditure data reported by grant recipients; however, the steps taken had not ensured the accuracy of the data.

Our analysis of financial data submitted by EECBG formula grant recipients to the Department, as of March 31, 2011, revealed that $879 million of the formula-based funding was unobligated by recipients. Of greatest concern, recipients had not met the Department's 18-month deadline to obligate $511 million of this amount. Since our prior report, recipients had made significant progress in expending their EECBG funds, having spent $1.3 billion, or nearly one-half of the $2.7 billion in formula grants by July 18, 2011. Despite this progress, the fact that nearly a third of the grant funds remain unobligated calls into question the ability of recipients to effectively use all of the grant funds within the 36-month performance period.

Department officials indicated they were aware of these issues and had made numerous outreach efforts with recipients to provide assistance in removing barriers to obligating and spending funds. Additionally, officials are currently evaluating the likelihood that recipients will be able to expend funds before the end of their grant performance periods and identifying options to address those recipients who may fail to do so. However, as time continues to pass, the Department needs to finalize a plan of action to address unobligated funding. The plan should include actions to either mandate that current unobligated funds be used to stimulate the economy consistent with the goals of the Recovery Act or ensure the Department takes appropriate action to address recipients' noncompliance with the terms and conditions of their grants, including the 18-month obligation requirement. Ultimately, if recipients fail to utilize their Recovery Act EECBG funding, the Department should terminate the grants and return the funds to the U.S. Department of Treasury (Treasury).

Monitoring/Controlling Recipient Unobligated Balances

Department officials acknowledged that recipients had not obligated over half a billion dollars in EECBG funds within the 18-month deadline, and told us that although recipients had not met this deadline, they believed a majority of them were making "good faith efforts" to complete grant activities within the 36-month performance period of the grants. Nonetheless, officials stated that, based on their preliminary analysis, recipients may not expend an estimated $371 million of Program funds by the end of the grants' performance periods. Officials indicated they are currently in the process of refining that estimate and expect to determine a more precise figure.

Department officials explained that there are many valid reasons why recipients have been unable to obligate funds within 18 months. For example, a recipient that performs a building retrofit might need to conduct an energy audit before obligating funds for the actual building retrofit. Officials indicated that recipients could request extensions to the 18-month obligation deadline; however, only 198 of the 1,358 recipients that failed to meet the deadline had requested and received formal extensions from the Department.

Instead of terminating awards and deobligating unexpended funds, Department officials told us they preferred to assist recipients in successfully completing projects and have an ongoing effort in that regard known as "Clear Path." Beginning in September 2010, the Clear Path effort was initiated to provide technical assistance to those recipients that had been slow to obligate and expend their grant funds. Under Clear Path, officials reported they have completed thousands of phone calls, emails, letters and onsite visits to recipients.

While the effort to encourage and assist recipients to complete projects is a positive step, we remain concerned with the slow pace of obligations in the face of the ever shrinking grant performance period. The performance period end dates for a majority of formula grants are in the last half of calendar year 2012. As time passes, there is a greater risk that recipients will be unable to effectively use the funds because of the time required to select and design projects, purchase goods and services in accordance with Federal and state regulations, and comply with legal provisions such as those contained in the National Environmental Policy Act and the National Historic Preservation Act. Our concern is heightened because the historic experience of oversight agencies suggests that pressures to obligate and spend expiring funds significantly increase the risk that important safeguards may be circumvented and that fraud, waste and/or abuse may occur in the rush to meet deadlines.

The Department is in the preliminary stage of identifying options to assist those recipients who may not expend their funds within the grant performance period. While the Department prefers to work with recipients to complete their grants, Federal regulations and the terms and conditions of the grants provide remedies for nonperformance, including:

- Temporarily withholding payments from grantees;
- Wholly or partly suspending or terminating awards; and/or,
- Granting extensions, where appropriate.

In our opinion, because of the limited time remaining, the Department needs to finalize an action plan addressing the disposition of unobligated funds.

Reliability of Recipient Information

The data we examined suggests additional actions may be needed by the Department to ensure effective grant fund management. In particular, we identified anomalies with the reported grant recipient data that need to be resolved to ensure program results are recorded accurately and additional enforcement action is not warranted. The anomalies we observed with recipient reported obligations, in our opinion, have the potential to undermine confidence in the Department's management of the EECBG Program on an on-going basis.

To perform our analysis, we used data from the Department's Performance and Accountability for Grants in Energy (PAGE) system, which is an official record of EECBG formula-based grant data. The accuracy of the unobligated balance information contained in the PAGE system depends on the completeness and accuracy of the underlying data reported by recipients. While we have not performed a comprehensive assessment of the reliability of the data in the PAGE system, we have identified questionable data which indicates the PAGE system is neither complete nor accurate. We could not determine the overall effect that data quality issues would have on the balance of unobligated amounts reported by the PAGE system. However, material inaccuracies in such data detract from its usefulness as a management tool and could, if relied on, lead Department officials to erroneous conclusions regarding recipient activities or progress in obligating and expending grant funds. Specifically, we observed anomalies with:

- **Over-Obligated Balances:** According to the PAGE system, 36 grants had obligations and expenditures exceeding the grant award amounting, in aggregate, to $9.4 million. This information, if accurate, would indicate that the recipients had committed and/or spent more than they had been authorized. We noted that in seven cases, Department officials had approved the reports submitted by the recipients even though the reports included the over-obligated balances. After we brought this issue to their attention, Department officials began to research the causes of these anomalies. In one example, a $2.5 million over-obligated balance was determined to be a reporting error; the recipient subsequently resubmitted its report showing an unobligated balance of $1.3 million. We confirmed that other negative balances were also subsequently corrected and approved.

- **Obligations of 60 Percent Pass-Through:** Available PAGE system data was not consistent with statements made to us by Department officials who told us that all state energy offices had satisfied the EECBG Program requirement to obligate a percentage of their awards to local governments. According to PAGE system data, not all the state energy offices had obligated at least 60 percent of their awards to local governments as required. For instance, a state energy office received a $30.4 million formula-based award. For the quarter ending March 31, 2011, the state reported no obligations and only $2.2 million in expenditures (7 percent of the total award); data which suggests the state had either not passed through its required 60 percent or had not properly reported the obligations in the PAGE system. Department officials informed us that they performed further analysis of this issue and discovered that nine states had incorrectly reported obligations in the PAGE system.

- **Obligations of Administrative Funds:** PAGE system data indicated that not all recipients reported obligations for funds committed to administrative functions as required by Department guidance. Department guidance states that funds to be expended internally by a sub-recipient (i.e., not expended to reimburse a vendor nor award a sub-recipient) should be considered obligated when they have been committed to the internal department that will expend the funds. For example, at the beginning of the grant period, a recipient identified $771,000 to be used for administrative costs that should have been reported as fully obligated. However, as of March 31, 2011, the recipient had not reported $381,000 of the $771,000 as obligated for administrative functions.

While acknowledging the data errors we identified, Department officials expressed their belief that the errors represented a small percentage of the overall data in the PAGE system. They also stated that with limited resources, they would not be able to ensure accuracy of all PAGE system data. They added that recent efforts have been focused on ensuring the accuracy of reported performance measurement data, rather than obligations data, due to a recent U.S. Government Accountability Office report that highlighted issues with the Program's performance management data.

Department officials told us they rely on project officers to verify the accuracy of recipient reported information; however, problems we identified suggest this internal control may not be effective or working as intended. They advised us that project officers also maintain informal, offline tracking worksheets for each grantee that include obligations data; however, they acknowledged these worksheets are not timely reconciled with the PAGE system obligations data. Department officials have indicated they are working on solutions to address the data reliability issues we identified, including the implementation of automated controls to prevent such errors.

Without reliable obligation data, the Department is unable to ensure it has a complete understanding of the status of grants and is, therefore, unable to determine whether additional actions are needed to assist awardees or whether it would be more appropriate to deobligate funds, allocate them to better performing projects, or, if appropriate based on grant terms and conditions, return them to the Treasury.

RECOMMENDATIONS

The current state of the EECBG Program obligations raises concern regarding whether the Program will meet its intended goals and uncertainty regarding whether recipients are on track to do so by the end of the terms of their grants. Therefore, we recommend the Acting Assistant Secretary, Energy Efficiency and Renewable Energy:

1. Verify the reliability of obligations data reported by EECBG grant recipients, including assurance that:

    a. Over-obligated balances have been identified and corrected;

    b. State energy offices have reported obligations on funds passed through to local government entities; and,

    c. Recipients have obligated funds associated with administrative costs.

2. Identify recipients who have not satisfied their 18-month obligation commitment under the terms of the grant awards, and take action to either:

    a. Encourage the recipient to submit an extension for approval; or,

    b. Use the remedies identified in the Department regulation.

3. Complete the analysis to identify those recipients who are unlikely to expend funds within the grant period and consider alternatives for managing EECBG Recovery Act funds, including actions to:

    a. Assist recipients in completing projects within the grant period;

    b. Establish criteria for grant performance period extensions and communicate the criteria and the plan to implement the criteria to grant recipients;

    c. Encourage recipients to reprogram funds to other allowable energy efficiency and conservation activities that could be more timely completed; or,

    d. Terminate awards and remit funds to the Treasury.

MANAGEMENT AND AUDITOR COMMENTS

Management concurred with our recommendations and stated that it was executing plans to address each of the issues identified. Management pointed out that it has focused aggressively on encouraging grant recipient spending and obligation of funds. Additionally, management noted that its outreach activities have led to dramatic increases in recipient spending. Specifically, management stated as of August 10, 2011, EECBG recipients had spent $1.372 billion, or 48 percent of the total EECBG allocation. Management also stated that, as of June 30, 2011, EECBG recipients reported obligating $1.98 billion, or 70 percent of the total EECBG allocation.

Management also noted that there is no statutory requirement for recipients to obligate funds within 18 months or for the project period to be limited to 36 months. According to management, the Department chose these milestones to help maximize the economic and job-creation impact of EECBG. Management noted that, under the Recovery Act, recipients have until September 30, 2015, to expend funds.

Recognizing the progress made to date and the economic and job-creation stimulus purpose of the milestones it established in the EECBG grant agreements, management committed to complete outreach activities to recipients, institute corrective action plans where needed, finalize and communicate plans for recipients unlikely to spend all funds by the end of the grant performance period, and identify and correct data quality issues.

Management's comments, attached in their entirety, were responsive to our recommendations. Management waived an exit conference.

cc: Deputy Secretary
Associate Deputy Secretary
Deputy Assistant Secretary for Energy Efficiency
Acting Chief Financial Officer
Chief of Staff

Attachment

Department of Energy
Washington, DC 20585

AUG 24 2011

MEMORANDUM FOR: GEORGE W COLLARD
ASSISTANT INSPECTOR GENERAL
FOR AUDITS
OFFICE OF INSPECTOR GENERAL

FROM: KATHLEEN HOGAN
DEPUTY ASSISTANT SECRETARY
FOR ENERGY EFFICIENCY
OFFICE OF TECHNOLOGY DEVELOPMENT
ENERGY EFFICIENCY AND RENEWABLE ENERGY

SUBJECT: Response to Office of Inspector General Draft Management Alert on "The Status of Energy Efficiency and Conservation Block Grant Recipients' Obligations"

The Office of the Inspector General (OIG) makes three recommendations for DOE's management of EECBG recipients with unobligated balances of grant funds. We concur with OIG's recommendations and are already executing plans that address these recommendations.

For the past year, EECBG program staff have focused aggressively on encouraging recipient spending and recipient obligations. In the most recent outreach effort, which ran from April 2011 to June 2011, DOE staff conducted over 1,200 phone calls and 126 in-person visits with EECBG recipients to help increase spending. Thanks in part to this outreach, DOE recipients have dramatically increased spending. As of August 2010, EECBG recipients had spent $269.7 million, or approximately 9% of the total EECBG allocation. As of August 10, 2011, DOE recipients had spent $1.372 billion, or 48% of the total EECBG allocation. June 2011 marked the program's highest-spending month to-date—grantees spent more than $170 million. Thus, DOE recipients have made significant strides in spending their grant dollars. EECBG program recipients reported funding 5,411 jobs in the quarter ending June 30, 2011, making EECBG the 11th strongest job producer out of 200 Recovery Act programs ranked by Recovery.gov.

The EECBG program also monitors obligations as another indicator of recipient activity, and encourages grantees to obligate their funds as quickly as possible. As of June 30, 2011, EECBG recipients reported obligating $1.98 billion, or 70% of the total EECBG allocation. As further background, there is no statutory requirement for recipients to have money obligated in 18 months or for the project period to be limited to 36 months. The Recovery Act legislation only requires that all funds be expended by September 30, 2015, which is more than two years after the current end date of most EECBG grants. DOE chose to set milestones that were more aggressive than the statutory requirement to help maximize the economic and job-creation impact of EECBG. While not all EECBG recipients have satisfied DOE's more aggressive milestones, DOE believes that such milestones are an important reason why the vast majority of EECBG grant-funded projects are on track to be completed a full two years ahead of the Recovery Act's statutory end date of September 30, 2015.

The first OIG recommendation is to "verify the reliability of obligations data reported by DOE grant recipients." DOE concurs with this recommendation and is already executing a plan to address this recommendation. As additional background, the EECBG program has had a data integrity plan in place since September 2010. EECBG recipients collectively report approximately 130,000 distinct data points each quarter. DOE has engaged in several ongoing initiatives to improve grantee-reported data. Based on OIG's recommendation, DOE will now place more emphasis on verifying and improving the quality of obligations data. This effort will include a thorough analysis of historical obligations data to identify and correct any mistakes that may exist beyond the approximately 45 cases of data errors discovered by OIG. Also, DOE will improve the data entry interface to help prevent future data errors. The program plans to complete these actions by the end of FY11.

The second OIG recommendation is to "identify recipients who have not satisfied their 18-month obligation commitment under the terms of the grant awards, and take action to either: a) Encourage the recipient to submit an extension for approval; or, b) Use the remedies identified in Department regulation." DOE concurs with this recommendation and is already executing a plan to address this recommendation. DOE has granted 18-month obligation deadline extensions to approximately 200 recipients. Some recipients that have passed the 18-month deadline with unobligated funds have not yet applied to DOE for extensions. DOE will proactively identify and reach out to these recipients and institute a corrective action plan in which grantees will be asked to either obligate their funds or to request an obligation extension. The grantee will be asked to show cause for such an extension. DOE plans to complete identifying the recipients needing proactive outreach by the end of FY11, concurrent with the effort to verify obligations data quality. DOE will complete initial outreach to each recipient on the list by the first quarter of FY12.

The third OIG recommendation is to "identify those recipients who are unlikely to expend funds within the grant period and consider alternatives for managing EECBG Recovery Act funds." DOE concurs with this recommendation. Several months ago, the program began developing a plan to proactively address the possibility that some recipients may not expend all funds by the end of their grant periods. In March 2011, DOE completed its first analysis of recipients unlikely to expend all funds within the grant period, based on recipient performance to-date. As standard operating procedure, DOE engages with struggling recipients to assist them in solving spending problems and/or to help reprogram funds from struggling activities to more successful projects. DOE currently anticipates that some recipients may not expend all grant funds within the performance period. While the bulk of the first EECBG recipients will not reach their performance period deadlines until July 2012, the program has been weighing its options for several months. By the end of FY 2011, the program expects to finalize and communicate a plan for recipients unlikely to spend all funds by the performance period deadline.

DOE thanks OIG for their efforts and for the opportunity to respond to their recommendations.

IG Report No. OAS-RA-11-16

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