



U.S. Department of Energy  
Office of Inspector General  
Office of Audit Services

# Special Report

Review of the Department of  
Energy's Plan for Obligating  
Remaining Recovery Act Contract  
and Grant Funding



OAS-RA-10-15

August 2010



# Additional Information

Special Report on "Review of the Department of Energy's Plan for Obligating Remaining Recovery Act Contract and Grant Funding"  
OAS-RA-10-15  
August 6, 2010

Report OAS-RA-10-15, Review of the Department of Energy's Plan for Obligating Remaining Recovery Act Contract and Grant Funding, was issued to the Secretary and the Department's management on August 4, 2010.

On August 5, 2010, the Department announced the award of the so-called "FutureGen 2.0" contract, using \$1 billion of American Recovery and Reinvestment Act funding. Despite our request, specific information pertinent to this action was not provided to the Office of Inspector General prior to release of the audit report. These circumstances are described on page 4 of the report in the paragraph referring to the Fossil Energy Program. The data is highly relevant to the subject of Report OAS-RA-10-15.



**Department of Energy**  
Washington, DC 20585

August 4, 2010

MEMORANDUM FOR THE SECRETARY

FROM:   
Gregory H. Friedman  
Inspector General

SUBJECT: INFORMATION: Special Report on "Review of the Department's of Energy's Plan for Obligating Remaining Recovery Act Contract and Grant Funding"

BACKGROUND

The American Recovery and Reinvestment Act of 2009 (Recovery Act), enacted in February 2009, provided over \$36 billion to the Department of Energy (Department) for various science, energy and environmental programs and initiatives. The majority of the funds (\$32.7 billion) were provided in the form of contract and grant authority that went to the Department's Offices of Energy Efficiency and Renewable Energy (EERE), Environmental Management (Environmental Management), Electricity Delivery and Energy Reliability (OE), Fossil Energy (Fossil Energy), Science (Science), and Advanced Research Projects Agency - Energy (ARPA-E). Under the terms of the Recovery Act, these funds must be obligated by September 30, 2010.

Obligating such a significant amount of funds by September 30, 2010, is a challenging task, which has and will continue to require a significant, labor intensive effort by the Department. Our Special Report on *Selected Department of Energy Program Efforts to Implement the American Recovery and Reinvestment Act* (OAS-RA-10-03, December 2009), noted that the obligation of funds and staffing levels represented risk areas that would require a focused effort to overcome. Faced with tight deadlines to obligate unprecedented levels of funding, the Department hired additional procurement officers and other personnel possessing the skills necessary to meet its goals. Programs are working aggressively to ensure that resources are deployed where they will be of greatest value. However, despite these efforts, two of the Department's major projects have less than 50 percent of their Recovery Act funds obligated. And, as of the date of this review, none of the programs has obligated 100 percent of their respective funding.

With the deadline fast approaching, we initiated this audit to determine whether the Department had developed effective plans to obligate remaining Recovery Act funding in accordance with required timeframes.

OBSERVATIONS AND CONCLUSIONS

Our review disclosed that as of July 9, 2010, the Department had obligated \$29.3 billion, or 90 percent, of the \$32.7 billion that was required to be obligated by the September 30, 2010, Recovery Act deadline. While such progress is laudable, \$3.4 billion remains to be obligated in:

less than three months, mostly in the form of financial assistance grants, cooperative agreements, and contracts. The Department believes its plan is sufficient to accomplish this task. However, a number of issues remain to be addressed – many of which could impede its ability to meet the deadline. We are particularly concerned that delays in the award process for two major Fossil Energy projects could result in the expiration of funds before all awards are made.

### Monitoring & Oversight

Department officials told us that execution of the plan for ensuring that obligations are made requires considerable effort. The Department's Recovery Act Team and Office of Chief Financial Officer (OCFO) have primary responsibility for monitoring and oversight and will monitor and oversee progress made by the programs. These officials are also poised to identify and attempt to resolve any obstacles program officials may face in obligating the remaining Recovery Act funds on time. Since passage of the Act, the Recovery Act Team indicated that it had coordinated the implementation of Recovery Act efforts across the Department and had put in place two key management structures to regularly monitor progress:

- Weekly tag-up meetings with senior program and functional officials to share best practices and review project level obligations, payments and milestones; and,
- Weekly Recovery Program Reviews to provide insight on the financial and operational elements of a program office's projects.

The Recovery Act Team reported that it had worked with the OCFO and program offices to develop a series of standardized financial and project reports to provide a single source of transparent and consistent financial information. All reports were featured on an internally available web site known as the Department's iPortal dashboards, a system that extracts and aggregates data from the Department's financial information systems which are then used to track the daily status of obligations, spending, milestones and performance metrics. Department officials reported that this data had been instrumental in managing programs and addressing issues as they occurred. In addition, the OCFO had compiled an "exposed funds" report detailing how much each program has left to obligate, any upcoming selections, and planned dates, provided by the programs, to obligate the funds.

In May 2010, the OCFO issued *American Recovery and Reinvestment Act of 2009 End of Year Guidance* to provide Fiscal Year (FY) 2010 year-end legal, financial and procurement guidance related to Recovery Act funding to heads of departmental elements. This guidance was issued with the stated purpose of ensuring that the Department responsibly obligates the Recovery Act funding expiring at the end of FY 2010, as well as providing guidance in the management of Recovery Act funds after 2010. The guidance emphasized the need for program offices to prioritize their remaining obligations and established milestones for procurement actions, given practical limitations on the Department's ability to process new obligations through the procurement and accounting systems while maintaining adequate internal controls.

The Department's Office of Risk Management (Risk Management) within the OCFO also issued Department-wide guidance for risk management efforts. Risk Management has worked with program officials to refine program plans and risk mitigation strategies. Specifically, Risk

Management worked through a detailed process to identify high risk recipients and to ensure appropriate management direction and oversight resources are directed to these high risk recipients.

Additional guidance and contracting terms were implemented to assist with awarding funds for Recovery Act activities. To aid each of the Department's programs, the Office of Procurement

and Assistance Management (Procurement) developed guidance on funding acquisition and financial assistance activities with Recovery Act appropriations to help maximize the effective use and management of those funds. Procurement also developed special contractual terms and conditions for programs to use to ensure project compliance with new Recovery Act requirements.

### Program Plans

We found that each of the Department's participating program offices had developed or were working on internal plans to obligate its remaining funds by September 30, 2010. We found, as well, that 10 of the Department's Recovery Act projects were responsible for almost 80 percent (\$2.7 billion) of the remaining \$3.4 billion to be obligated. The following chart represents their status as shown in iPortal on July 9, 2010:

### **Top Ten Projects with Unobligated Balances**

<b>rogram Office</b>	<b>Project Description</b>	<b>Spend Plan<sup>1</sup></b>	<b>Obligated</b>	<b>% Obligated</b>	<b>Unobligated</b>
Fossil Energy	Carbon Capture and Storage	\$1,000,000,000	\$0	0%	\$1,000,000,000
Fossil Energy	Industrial Carbon Capture and Storage Applications	\$1,517,838,166	\$671,154,376	44%	\$846,683,790
EERE	Weatherization Assistance	\$4,975,000,000	\$4,797,642,337	96%	\$177,357,663
ARPA-E	Advanced Research Projects Agency - Energy	\$377,556,000	\$221,764,467	59%	\$155,791,533
EERE	EE Conservation Block Grant Program	\$2,803,260,000	\$2,692,155,543	96%	\$111,104,457
Environmental Management	SRS D&D P & R Areas Recovery Act Project	\$478,400,000	\$379,560,291	79%	\$98,839,709
Environmental Management	SRS D&D M & D Areas Recovery Act Project	\$104,000,000	\$20,951,570	20%	\$83,048,430
Science	SBIR/STTR	\$95,750,452	\$18,682,716	20%	\$77,067,736
Environmental Management	Hanford Central Plateau D&D Recovery Act Project	\$701,516,000	\$625,115,000	89%	\$76,401,000
EERE	Advanced Building Systems	\$80,987,319	\$12,681,915	16%	\$68,305,404
<b>Total</b>		<b>\$12,134,307,937</b>	<b>\$9,439,708,215</b>		<b>\$2,694,599,722</b>

<sup>1</sup> Reallocations pending OMB apportionments as of July 23, 2010, to other Department Recovery Act projects will reduce spend plan amounts to \$11,890,940,859 for the projects included in this chart.

While individual program officials told us that they either had developed or were working on plans to ensure that all funds are obligated, as required, our review disclosed some significant execution risks. Specifically:

- Fossil Energy – Fossil Energy officials asserted that the Department had a plan to obligate the remaining \$1.8 billion in Carbon Capture and Storage and Industrial Carbon Capture and Storage Applications project funds. However, they would not share any details of the plans with us because of what they described as sensitive procurement issues that could jeopardize the approval, negotiation and award of these projects. These officials indicated that previously planned use of Recovery Act funds for these projects has changed due to technological and economic complexities. As we noted in our Special Report on *Selected Department of Energy Program Efforts to Implement the American Recovery and Reinvestment Act* (OAS-RA-10-03, December 2009), related problems in the past have adversely impacted the Department's ability to successfully execute similar projects. Recovery Act Team officials indicated that Fossil Energy continues to face risks in meeting its obligations deadline. Relevant major projects include:
  - ✓ The \$1 billion Carbon Capture and Storage project was to partially fund construction of the first commercial scale, fully integrated, carbon capture and sequestration project in the country. The Department received the renewal application for the project in March 2010 and had originally planned to obligate the funds in September 2010 pending review and decision. In late July 2010, the final decision on this project was still pending, but the program and the Recovery Act Team indicated that they were confident that the funds would be fully obligated by the September 30, 2010, deadline as long as a decision on a path forward is reached no later than August 13, 2010.
  - ✓ The \$847 million in remaining Industrial Carbon Capture and Storage Applications project funds were to be used to complete phase 2 design, construction and operation of several of the most promising projects that completed phase 1 activities in May 2010. In June 2010, the Department selected three projects from phase 1 to enter into phase 2. Recovery Act awards for these three projects totaled \$612 million, leaving \$847 million currently unobligated. In July 2010, the Department selected six additional projects and plans to make awards totaling \$106 million by mid-September 2010. Recovery Act Team officials indicated that the project's phase 2 selection had fewer applicants than planned.
- EERE – Three Recovery Act projects remain with significant funds to be obligated.
  - ✓ The Energy Efficiency and Conservation Block Grants Program includes awards for both formula grants and competitive grants. The majority of the formula grants have already been obligated and EERE plans to award the remaining \$41 million by the middle of September 2010. EERE recently selected awardees for the competitive grants and plans to award and obligate \$63 million of these funds and \$7 million in additional technical assistance funds by the end of July 2010.

- ✓ The Weatherization Assistance Program (WAP) has the majority of its unobligated funds residing in two projects – Sustainable Energy Resources for Consumers Grants and Training and Technical Assistance. EERE plans to make awards to the Weatherization Training Centers by mid-August 2010. EERE also plans to obligate the remaining Sustainable Energy funds through amendments to existing awards within WAP by the end of August 2010.
- ✓ The Advanced Building Systems project will fund research focused on the systems design, integration, and control of buildings to achieve energy-efficient and eventually net zero-energy buildings. In early June 2010, EERE selected 45 potential recipients to receive \$68 million in funds. EERE has made 15 awards under this project and plans to award all remaining funds in early August 2010.
- ARPA-E – ARPA-E has completed the selection process for all three rounds of its Recovery Act Funding Opportunity Announcements (FOA) and plans to award all remaining funds by late August 2010. Specifically, ARPA-E plans to finalize awards for more than 40 projects which were selected from its second and third (final) rounds of FOAs. Round three selections were announced in mid-July and awards will include \$92 million in Recovery Act funds. ARPA-E anticipates having about \$15 million remaining after the third round of FOAs and plans to award these funds by late August 2010 to projects that are currently on a wait list.
- Environmental Management – Requests were sent to the Office of Management and Budget (OMB) on July 8, 2010, to reappportion the majority of remaining unobligated funds as a result of cost variances in existing Recovery Act contracts. According to a Department official, OMB approved the reappportionment on July 29, 2010; however, Environmental Management had not obligated the funds as of August 3, 2010.
- Science – Science has completed the selection of its grant recipients under phase II of the Small Business Innovation Research/Small Business Technology Transfer Research project. According to a Department official, Science sent requisitions for the awards to its Chicago procurement office on August 3, 2010. The Chicago procurement office plans to finalize these awards and obligate the funds by the end of September 2010.

Each of the program offices we spoke with told us that steps are being taken to ensure that Recovery Act funds are obligated by the September 30, 2010, deadline. Additionally, Department officials stated that many staff members have been working exceptionally long hours to accomplish all of the necessary tasks. Some offices have hired support staff; this takes the form of contracting out support work, hiring college students to perform administrative tasks on their breaks from school, and hiring career interns to supplement the full-time staff. Program offices have also been working together to guarantee that resources, notably procurement personnel, are available to those offices with the greatest workload. For all new selections, programs are using SWAT teams to ensure expeditious obligation of funds. For example, a Department official stated that the Department's attorneys and environmental compliance officers are working directly with applicants to expedite environmental impact determinations.

## Risk Mitigation

The Department developed a plan to obligate remaining Recovery Act funds in an expeditious manner in order to meet statutory deadlines. However, we noted that the effort to meet current deadlines must overcome a number of challenges and risks. To its credit, the Department has recognized these challenges, has concluded that its plan is sufficient to address the risks, and is prepared to obligate remaining funds prior to expiration. While we respect the intensity of the Department's work effort, we have identified significant challenges that must be addressed if the September 30, 2010, deadline is to be met:

- Selections for many projects still need to be made and there may not be sufficient time or resources to complete negotiations and finalize awards. For example, Fossil Energy has not yet completed its selection process for the \$1 billion Carbon Capture and Storage project and for \$741 million in Industrial Carbon Capture and Storage Applications project funds. In addition, we noted that, in a Department-wide tracking report as of July 19, 2010, there were 40 potential awardees for OE projects that had been selected but not obligated for more than 90 days; indicating that the responsible program office has been in negotiations with the selectee for the entire time period. If selections made after June 2010 require more than 90 days to negotiate, they will not be completed and therefore obligated by the September 30, 2010, deadline.
- Regulatory approval is needed for a number of previously awarded Recovery Act projects to move forward. As the Department's programs have no control over the outcome of regulatory reviews, it is possible that some obligations could fall through in the coming months, not allowing the Department sufficient time to re-obligate funds. For example, a local public service commission recently denied approval of an application submitted by a Recovery Act recipient to install equipment provided through the Smart Grid Investment Grant Program. OE officials stated that while the recipient's efforts to obtain regulatory approval are ongoing, OE may need to quickly re-obligate \$200 million in Recovery Act funds if approval is not received.
- The quality of forthcoming proposals submitted to the Department by inexperienced recipients may be unacceptable and some programs may have little time to assist recipients in correcting deficiencies. The Recovery Act has significantly increased funding in areas that had received little funding in recent years and has attracted prospective recipients that have had little or no experience in preparing proposals for Federal awards.

Finally, the inability of recipients to meet terms and conditions placed on awards by the Department either to protect the government's interest or to meet statutory requirements could result in cancellation of awards or cause delays in spending. Specifically, depending on how the agreements are structured, if recipients cannot meet award conditions in the time required, the Department may have to cancel the award and de-obligate the funds. If the awards are cancelled after September 30, 2010, the funds expire and are not available for obligations on new projects which could diminish the stimulative effectiveness of the award. One procurement official informed us that conditions on obligations may be prevalent as efforts are increased to obligate all of the funding by the deadline. Most conditions are in place for one of two reasons:

recipients who are new to the government need to have an audit performed to ensure their accounting systems meet standards; and, a number of projects need to comply with National Environmental Policy Act regulations before Recovery Act funds can be spent. As we have noted in various reports on this subject, obtaining this regulatory approval is often time-consuming.

We consider all of these concerns to be material in nature. However, nothing came to our attention to indicate that the Department's plan to obligate remaining Recovery Act funding by September 30, 2010, will not be effective, at least for most of its funds at risk. That said, we are especially concerned that delays in the award process for the Carbon Capture and Storage and Industrial Carbon Capture and Storage Applications projects could result in the expiration of funds before all awards are made. Continued monitoring and oversight, with a particular focus on significant challenges and risks, should help ensure that most Recovery Act funds are obligated on time.

### SUGGESTED ACTIONS

To address the risks to obligating Recovery Act funds by the September 30, 2010, deadline, we suggest that the Recovery Act Team and Office of Chief Financial Officer intensify planned monitoring and oversight activities with a particular concentration on projects: (1) experiencing delays in the selection of financial assistance awardees; (2) containing conditional awards; and, (3) requiring regulatory approval.

### MANAGEMENT COMMENTS

Management expressed its view that the overall content and tone of the report were fair and accurate, and that our suggested actions were logical and consistent with current plans to address risks in obligating the remaining Recovery Act contract and grant funding.

#### Attachments

cc: Deputy Secretary  
Under Secretary of Energy  
Under Secretary for Science  
Chief of Staff  
Chief Financial Officer  
Senior Advisor, Office of American Recovery and Reinvestment Act  
Assistant Secretary, Office of Energy Efficiency and Renewable Energy, EE-1  
Assistant Secretary, Office of Environmental Management, EM-1  
Assistant Secretary, Office of Electricity Delivery and Energy Reliability, OE-1  
Assistant Secretary, Office of Fossil Energy, FE-1  
Director, Office of Science, SC-1  
Director, Advanced Research Projects Agency – Energy, AR-1

## **OBJECTIVE, SCOPE AND METHODOLOGY**

### **OBJECTIVE**

To determine if the Department of Energy (Department) had developed effective plans to obligate the remaining American Recovery and Reinvestment Act of 2009 (Recovery Act) funding in accordance with required timeframes.

### **SCOPE**

The review was performed in June and July 2010 at Department Headquarters in Washington, DC and Germantown, Maryland.

### **METHODOLOGY**

To accomplish our objective, we:

- Reviewed the Recovery Act legislation and determined Recovery Act projects with a September 30, 2010, funds expiration date;
- Reviewed Departmental policies and procedures related to obligating Recovery Act funds;
- Interviewed officials from Headquarters Office of Chief Financial Officer, Recovery Act Team and Office of Management and procurement officials from the National Energy Technology Laboratory to obtain the Department's plans for obligating Recovery Act funds and to determine monitoring and oversight procedures and risk mitigation strategies;
- Analyzed obligations data in reports produced from the Department's iPortal system and selected ten Recovery Act projects with the most unobligated funds as of July 9, 2010;
- Interviewed officials from Offices of Energy Efficiency and Renewable Energy, Environmental Management, Electricity Delivery and Energy Reliability, Fossil Energy, Science, and Advanced Research Projects Agency – Energy to obtain program plans for obligating Recovery Act funds for the selected projects and determine risk mitigation strategies; and,
- Assessed the reliability of computer processed data in iPortal related to Recovery Act obligations and found it to be sufficiently reliable.

We discussed the report with officials from the Office of the Chief Financial Officer and the Recovery Act Team on August 3, 2010.

July 29, 2010

MEMORANDUM FOR: GREGORY H. FRIEDMAN  
INSPECTOR GENERAL

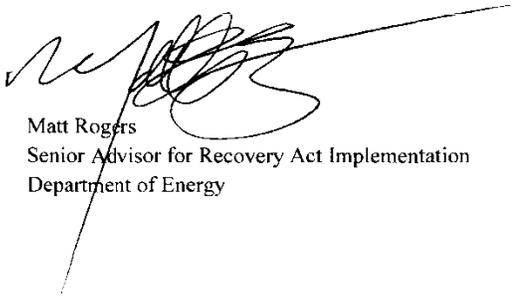
FROM MATT ROGERS  
SENIOR ACCOUNTABLE OFFICIAL, RECOVERY ACT  
IMPLEMENTATION

SUBJECT: Comments to Draft Report – *The Department's Plan for Obligating  
Remaining Recovery Act Funding (A10RA063)*

Thank you for the opportunity to review your draft report. We appreciate your recognition of the progress made by the Department in obligating Recovery Act funds and your identification of risks to obligating the remaining funds. We found the overall content and tone of the report fair and accurate. Your suggested actions are logical and consistent with current plans to address risks in obligating the remaining Recovery Act contract and grant funding.

While the Department is in general agreement with the report and its conclusions, we have provided comments on specific language within the report to enhance its accuracy and provide additional context.

Attachment



Matt Rogers  
Senior Advisor for Recovery Act Implementation  
Department of Energy

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2. What additional information related to findings and recommendations could have been included in this report to assist management in implementing corrective actions?
3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?
4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report which would have been helpful?

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

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