



Department of Energy
Washington, DC 20585

SEP PROGRAM NOTICE 12-001
EFFECTIVE DATE: 11/9/2011

SUBJECT: GUIDANCE FOR STATE ENERGY PROGRAM RECIPIENTS ON POLICY AND PROCEDURES PURSUANT TO THE CLOSEOUT OF AMERICAN RECOVERY AND REINVESTMENT ACT GRANTS

PURPOSE

To provide an overview to Department of Energy's (DOE) State Energy Program (SEP) Grantees on policy and procedures for the closing out of grant awards and treatment of conditions at the end of the period of performance.

SCOPE

The provisions of this guidance apply to Grantees and Sub-Recipients of SEP funds, pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 (Recovery Act or ARRA). The closeout process for annual SEP formula grants remains unchanged and is not addressed herein.

LEGAL AUTHORITY

SEP is authorized under the Energy Policy and Conservation Act, as amended (42 U.S.C. § 6321 et seq.). All grant awards closed out under this Program shall comply with all applicable laws including, but not limited to, the SEP statutory authority (42 U.S.C § 6321-et seq.), the Recovery Act (Pub. L. No. 111-5) and 10 CFR Parts 420 and 600.

GUIDANCE

This guidance provides Grantees with the basic procedural components related to closing out SEP awards once the period of performance for the ARRA grant ends. The period of performance for SEP awards is set forth in the individual Grantee assistance agreement. The Terms and Conditions statement that "funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015" is a reference to a statutory funds status authority and not to when funds obligated to SEP grantees must be expended. The individual performance periods are listed in Appendix A: "Periods of Performance for SEP ARRA Grant Awards."

The Program Office will provide additional details regarding the closeout procedure, but this guidance is intended to provide a broad overview of the Grantees' and DOE's responsibilities when seeking to close out their awards.

Regulatory Background

The DOE Financial Assistance Rules applicable to closeout for state, local and tribal governments receiving federal grants can be found in 10 CFR §§ 600.200-252. Per these rules, DOE will close out an award upon determination that all applicable administrative actions and all required work of the grant has been completed by the Grantee and all Sub-grantees.

Pre-Closeout Monitoring

DOE's closeout process for SEP grant awards conforms to the DOE Financial Assistance Rules and is intended to accommodate the unique nature of this program.

Prior to the end of the grant award period, SEP will schedule and conduct at least one more programmatic monitoring visit. The monitoring visit will provide an opportunity to review progress on grant fund expenditure, examine project status and accomplishments, and discuss preparations for completion of the grant and readiness for closeout. Based on the results of the monitoring visits with the grantee, the visit may include a visit to a limited number of sub-recipients, depending on the status and resolution of any corrective actions from previous monitoring visits. DOE may schedule additional monitoring visits within the 90 days following the end of the grant period. DOE also reserves the right any time after expiration of the grant award to review the recipient's records and work associated with the award. Refer to 10 CFR 600.242 for retention and access requirements for records.

Expenditures and Grant Closeout

All SEP ARRA funds must be expended by the end of the grant award performance period. This means that all grant work activities, other than minimal administrative work necessary to close out the grant, must cease at the end of the grant award period. No further work occurring *after* the grant performance period has ended can be paid for from grant funds; all non-administrative Grantee or Sub-recipient work activities must cease by close of business on the last day of the grant performance period. Invoices for work completed by the end of the grant performance period can be paid for with grant funds within 90 days of the end of the grant period (see 10 CFR 600.223).

Although SEP did not mandate it, many Grantees have required their Sub-Recipients to close out their awards a month or two in advance of the end of the period of performance in order to prevent unforeseen delays in project schedules from affecting

the State's grant. SEP encourages Grantees to build in a buffer period if they have not already done so.

While SEP ARRA funds must be expended prior to the end of the grant award performance period in the Financial Assistance Agreement, DOE is not requiring third-party administered financing instruments, including revolving loan funds (RLFs), interest rate buy-down programs (IRBs), and loan loss reserve programs (LLRs), to have their specific underlying loans made by that deadline. Expenditure of third-party RLFs, IRBs and LLRs is covered in EERE's Financing Guidance (http://www1.eere.energy.gov/wip/pdfs/sep_financing_guidance_2011-03-15.pdf) and the Frequently Asked Questions (FAQs) sections of the EERE and DOE General Counsel websites, which are located on the Energy.gov web pages at http://www1.eere.energy.gov/eere_faq/detail_search.aspx?IDQuestion=540&pid=10&spid=3 and <http://energy.gov/gc/report-appliance-regulation-violation/faqs-related-recovery-act/appropriations-questions>, respectively. Of course, the DOE expects grantees to make every effort to ensure loans are made expeditiously and prudently to maximize their economic impact.

All Grantee self-administered financial mechanisms must be obligated and expended *at least once* by the end of the performance period.

Closeout Package

Prior to the end of the grant award performance period, the DOE Contracting Officer will transmit via e-mail a closeout package to the Grantee, with a cover letter indicating the required information and action items. The Grantee initiates the closeout process by submitting the reports listed in the Reporting Requirement Checklist within 90 days of the grant expiration or termination. A Grantee must submit all financial, performance, and other reports and forms required as a condition of the grant. These may include, but are not limited to, the following:

- (1) Financial Assistance Property Closeout Certificate or SF-428, as applicable. Grantees must submit an inventory of all federally owned property and any property acquired with Federal funds (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from DOE for property that is no longer needed, consistent with guidance in the following section below;
- (2) Final Federal Financial Report (SF-425), submitted in PAGE;
- (3) Final ARRA §1512 Report, submitted at Federalreporting.gov;
- (4) Final Quarterly Performance Report, submitted in PAGE;

- (5) Corrected versions of all past PAGE reports as required for their approval by the Project Officer
- (6) Final SEP ARRA Progress Report;
- (7) Patent Certification form;
- (8) Final Request for Payment (SF-270), or documentation of final drawdown of funds through ASAP, as applicable; and
- (9) Verification/certification that the terms of any Corrective Action Plans related to any formal findings made during the course of monitoring have been fulfilled.

The Grantee selects the "Final Report" checkbox in the quarterly Performance and Accountability for Grants in Energy (PAGE) report, indicating that the Grantee has submitted its final Federal Financial Report (SF-425) and Quarterly Performance Report (QPR). Once the required reports and forms are submitted, DOE and the Grantee will resolve any outstanding issues. The DOE Project Officer will approve reports, after reviewing them for completeness and accuracy. DOE may schedule additional monitoring visits or conduct phone conversations with the Grantee if deemed necessary prior to closing out an SEP award.

Property

Real property, and equipment acquired by the Recipient and/or its subrecipients shall be subject to the rules set forth in 10 CFR 600.130-137, 10 CFR 600.231-233 or 10 CFR 600.320-324 as applicable.

Consistent with the goals and objectives of this project, the Recipient may continue to use Recipient acquired property beyond the period of performance of the award, without obligation, during the period of such use, to extinguish the DOE's conditional title to such property as described in 10 CFR 600.132-135, 10 CFR 600.231-233, 600.321-324, subject to the following: (a) the Recipient continues to utilize such property for the objectives of the project as set forth in the award; (b) DOE retains the right to periodically ask for, and the Recipient agrees to provide, reasonable information concerning the use and condition of the property; and (c) the Recipient follows the property disposition rules set forth in the applicable sections of 10 CFR Part 600, if the property is no longer used by the Recipient for the objectives of the project, and the fair market value of property exceeds \$5,000.

Once the current per unit fair market value of the property is less than \$5,000, pursuant to the applicable sections of 10 CFR Part 600, DOE's residual interest in the property shall be extinguished and Recipient shall have no further obligation to the DOE with respect to the property.

The regulations as set forth in 10 CFR Part 600 shall also apply to property in the possession of any Sub-Recipient or other entity where such property was acquired in whole or in part with funds provided by DOE under this grant or where such property

was counted as cost-sharing under the grant. Real property, and equipment acquired by the Recipient and/or its Sub-recipients shall be subject to the rules set forth in 10 CFR 600.130-137, 10 CFR 600.231-233, or 10 CFR 600.320-324 as applicable.

The property regulations as set forth in 10 CFR 600 are not applicable to the Recipient or Sub-Recipient who acquired property with funds provided by DOE to capitalize revolving loan funds or through a consumer rebate program for energy star and other qualified energy efficiency appliances.

Therefore, within 90 days after the expiration or termination of the grant, the Recipient shall provide DOE with a detailed property inventory report which lists any acquired property. See 10 CFR 600.232(d). In addition to the property inventory report, the Recipient should indicate whether the acquired property in excess of a current per-unit fair market value of \$5,000 continues to be needed for the purposes authorized in the grant or for other federally sponsored activities, such as the SEP annual formula award, or whether the Grantee wishes to obtain disposition instructions for the acquired property.

Final SEP ARRA Progress Report

Each Grantee is required to submit a final programmatic narrative in which the programs developed with ARRA funds are concisely but adequately described along with an explanation of the outcomes of each program. For each market title, Grantees shall describe their development timeline, implementing partners, program eligibility requirements, major projects and/or Sub-Recipients, notable successes or modifications to the program, monitoring efforts, and the status of the program after the period of performance.

The final SEP ARRA progress report should be cumulative, covering the entire period of the grant. While the variability in program design and administrative structure precludes the development of a single template which will accommodate all Grantees, the Final Progress Report should be viewed as an opportunity for sharing the ARRA narrative with a wider audience, including the public, interest groups and non-profits, and Congress. For most Grantees, the Final Progress Report is not anticipated to exceed 10-12 pages.

The Progress Report must provide a concise narrative assessment of the status of work and include the following information and any other information identified under Special Instructions on the Federal Assistance Reporting Checklist:

1. The DOE award number and name of the recipient.
2. The project title and name of the project director/principal investigator.
3. Date of report and period covered by the report.

4. A comparison of the actual accomplishments with the goals and objectives established for the period and reasons why the established goals were not met. (Items 1-4 should not comprise more than 1 page).
5. A discussion of what was accomplished under these goals during the grant award period, including all activities undertaken with grant funds, significant results, best practices, major findings or conclusions, key outcomes or other achievements. This section should not contain any proprietary data or other information not subject to public release. If such information is important, do not include the information, but include a note in the report advising the reader to contact the Principal Investigator or the Project Director for further information. (8-10 pages)
6. Cost Status. Show approved budget by budget period and actual costs incurred. If cost sharing is required break out by DOE share, recipient share, and total costs. (1 page)
7. As applicable, a description of any product produced or technology transfer activities accomplished during this reporting period (this item is additional to the suggested 10-12 page limit), such as:
 - A. Publications (list journal name, volume, issue); conference papers; or other public releases of results. Attach or send copies of public releases to the DOE Program Manager identified in Block 15 of the Assistance Agreement Cover Page;
 - B. Web site or other Internet sites that reflect the results of this project;
 - C. Networks or collaborations fostered;
 - D. Technologies/Techniques;
 - E. Inventions/Patent Applications; and
 - F. Other products, such as data or databases, physical collections, audio or video, software or netware, models, educational aid or curricula, instruments or equipment.

The Program Office recognizes that many Grantees may have already developed program summaries as part of initial proposals, press releases, or for internal reporting purposes. In addition, Grantees have been required to provide narratives for each market title on a quarterly basis. Aggregating quarterly narratives may be disjointed and overly detailed; therefore, Grantees should use existing material and content including, but not limited to, information in PAGE to provide narratives for market titles, and to develop the narratives on a project basis, rather than a market title basis, where possible.

This guidance document cannot address every situation that might arise, and specific questions not covered should be addressed by the Project Officer.

National Evaluation

The Program Office has contracted with Oak Ridge National Laboratory to conduct a programmatic evaluation of the impact of the programs and projects funded through ARRA. As part of the closeout process, Grantees and Sub-Recipients may be interviewed by the SEP National Evaluation team.

Allowable costs

DOE may, within 90 days of receipt and review of the documents in the completed closeout package, make upward or downward adjustments to the allowable costs. DOE will also make prompt payment to the Grantee for allowable reimbursable costs.

Following the end of the period of performance, the Grantee must immediately refund to DOE the balance of any unobligated (unencumbered) cash advances that are not authorized to be retained for use on other grants. (10 C.F.R. § 600.250(c)-(d)). Questions about specific costs should be referred to the designated Contract Specialist and/or Contracting Officer.

Administrative Costs

Grantees may incur *minimal* administrative costs for a period of 90 days after the end of the period of performance as they prepare the final report and other required documents. While not intended to be inclusive, the following activities are understood to fall within the definition of *minimal*, and may include:

- Tasks related to closing the SEP ARRA grant, such as PAGE, 1512, and financial reporting;
- Invoice processing for labor, material, and other costs incurred during the period of performance;
- Closeout of sub-awards according to existing State procedures;
- Aggregating reports from Sub-Recipients; and
- Travel for the purposes of final monitoring, evaluation, and any other tasks essential to closing out the grant. Grantees may not incur equipment costs during this 90-day period.

Although Grantees may make limited drawdowns of funds for administrative purposes during the closeout period, Grantees should bear in mind that, after the end of the period of performance, the DOE is *not obligated* to consider incurred costs to be allowable. As such, Grantees should be conservative when incurring costs, and are strongly encouraged to plan and budget in advance for their administrative needs; any exceptional needs which are anticipated should be brought to the attention of their Project Officer prior to the end of the grant period.

Non-Administrative Costs

Grantees may continue to draw down funds and pay invoices for non-administrative costs up to, but not later than, the 90 days following the end of the grant period, provided that the costs were incurred during the grant's period of performance.

Closeout of Financing Programs

Upon the formal closeout of the SEP ARRA grants, Grantees having ARRA funds invested in revolving loan funds, loan loss reserves, and other long-term financing programs are required to continue following the statutory and regulatory requirements under the Energy Policy and Conservation Act, as amended (42 U.S.C. § 6321 et seq.), ARRA and other authorities applicable to this program. Guidance concerning the specific administrative and reporting requirements and program restrictions unique to these financing mechanisms is currently in development and will be disseminated in the near future.

Grantees may end or reduce funding for an RLF program, loan loss reserve program, or other eligible financing program at any time as long as any remaining funds are used by the Grantee for an eligible purpose after submitting and finalizing an amendment through the DOE Project Officer. Alternatively, the funds may be returned to DOE.

According to SEP Program Notice 10-008C, funds disbursed under a loan agreement in an RLF may remain in a capital account after the period of performance. However, Grantees should make every effort to maximize the amount of actual work performed with loan capital by the end of the period of performance.

Interest Income

Any interest earned on funds which have been drawn down but not expended (outlaid) by a Grantee may be rolled back into the RLF, loan loss reserve account, interest-rate buy-downs or third-party loan insurance or used for another approved, eligible activity under ARRA, and is subject to the terms and conditions of its original grant, including special ARRA and other Federal requirements. Alternatively the funds are to be returned to the Federal government. See 31 CFR 205.15 and 205.25; 10 CFR 600.225(g).

Program Income

All program income paid to Grantees is subject to the terms and conditions of the original grant, including special ARRA and other Federal requirements. See 10 CFR 600.225(g) and SEP Program Notice 10-008C (March 14, 2011).

Post-ARRA Operation and Administration of Financing Instruments

Federal funds used to capitalize an RLF or fund loan loss reserves, interest-rate buy-downs and third-party loan insurance maintain their federal character in perpetuity. Grantees are expected to continue to provide oversight on these requirements after the

closeout of the Recovery Act grants. Guidance concerning the specific administrative and reporting requirements and program restrictions unique to these financing mechanisms is currently in development and will be disseminated in the near future.

National Policy Requirements

As stated in SEP Program Notice 10-008C, the Federal nature of ARRA funds is retained after the period of performance for the grant, and subsequent funding rounds are still subject to the national policy requirements specified by ARRA. These include the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Davis-Bacon Act (DBA), Buy American Act (ARRA §1605), Recovery Act reporting requirements, and other requirements from the Terms & Conditions.

Other than to reiterate the Program Office's preference that Grantees pursue projects that are eligible for a NEPA determination of "Categorical Exclusion", previous guidance regarding the applicability of these national policy requirements will not be restated here. Grantees should refer to SEP Program Notice 10-008C, issued on March 14, 2011, or direct specific questions about applicability to their Project Officer.

Categorical Exclusions

Grantees should consider restricting their financing programs to activities eligible for a NEPA determination of "Categorical Exclusion" (e.g., including this restriction in any third-party loan loss reserve contracts).

DOE has taken steps to expedite NEPA review for individual projects, groups of projects and financing programs that may be suitable for CX determinations. These steps include providing grantees with the SEP NEPA Template as a tool for applying for program-wide CX determinations. Please review guidance that DOE has previously issued on streamlining compliance with NEPA. That guidance and the SEP NEPA Template itself can be found at:

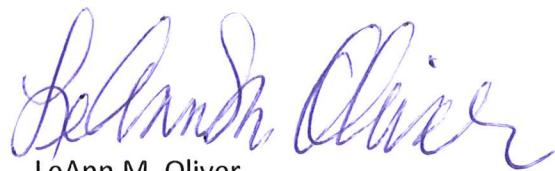
http://www1.eere.energy.gov/wip/pdfs/nepa_program_guidance_notice_10-003.pdf and http://www1.eere.energy.gov/wip/pdfs/template_nepa_review.pdf, respectively.

CONTINUING ACCESS TO CLOSEOUT GUIDANCE

Consideration was given to all recognized or potential areas of ARRA closeout foreseen on the effective date of this Program Notice. Recognizing the potential need for additional clarification or guidance not contemplated at this time, the SEP will establish a mechanism to intake and publish Frequently Asked Questions (FAQ) on its website. This FAQ will be located on, or accessible from, this Program Guidance location.

CONCLUSION

The DOE Financial Assistance Rules set forth the framework for the agency's implementation of closing out all financial assistance awards. DOE's closeout procedures for SEP awards will conform to both those principles and the unique nature of the Program. Please refer to specific guidance available on the SEP website for additional information on many of the topics discussed in this document. As Grantees begin to consider closeout procedures for their respective awards, please review this guidance and consult with your Project Officer if you have any questions.



LeAnn M. Oliver

Program Manager

Weatherization and Intergovernmental Program
Energy Efficiency and Renewable Energy

Copies to:

SEP Project Officers
PMC Office of Procurement