

Allocation & Administration of American Recovery & Reinvestment Act of 2009 funding by the California Energy Commission and Department of Community Services & Development

Millions of dollars provided to California by the American Recovery and Reinvestment Act of 2009 (ARRA) for energy efficiency programs administered by the California Department of Community Services and Development (DCSD) and the California Energy Commission (CEC) may be lost because of delays in spending the funds by the 2012 deadlines, according to two new reports from the California State Auditor. The July reports found that more than \$180 million out of \$226 million awarded to CEC had not been spent and nearly \$100 million of \$185 million awarded to DCSD had not been spent, with neither agency having adequate plans to expend all the funds in time to avoid reversion to the federal government. Each program was the subject of a prior State Auditor report warning of program delays and problems that put the funds at risk.

ARRA Funds Intended for Immediate Investment to Create Jobs

Signed into law on February 17, 2009, ARRA was a \$787 billion stimulus package hailed as the most sweeping financial legislation enacted in our nation's history. It was enacted to preserve and create jobs and promote economic recovery; to assist those most impacted by the recession; to provide investments needed to increase economic efficiency by spurring technological advances in science and health; to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and, to stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases. To achieve these goals, ARRA grant recipients are required to spend the funds within 36 months of the effective date of the awards.

\$185 Million for Low-Income Weatherization Services Administered by DCSD

The DCSD was awarded \$185 million in ARRA funds to supplement an ongoing program to provide eligible low-income residents free weatherization and energy efficiency services. DCSD receives about \$25 million per year for the Low-Income Home Energy Assistance Program (LIHEAP) from the federal Department of Health and Human Services and another \$5 million per year from the Department of Energy (DOE). The deadline for expenditure of the ARRA funds is March 31, 2012.

The program's objectives include increasing the energy efficiency of dwellings owned or occupied by low-income persons and reducing their total expenditures on energy. To implement the program, DCSD contracts with community energy service providers, who deliver to eligible households weatherization and other services such as attic insulation, energy efficient refrigerators, energy efficient furnaces, weatherstripping, caulking, low-flow showerheads, water heater blankets, and door and building envelope repairs that reduce air infiltration. About 85 percent of grant funds go to service providers, and DCSD retains 15 percent for its administrative costs and for providing training and technical assistance to weatherization staff.

The California Public Utilities Commission (CPUC) administers a substantially similar low-income weatherization program – Energy Savings Assistance Program (ESAP), formerly known as Low Income Energy Efficiency (LIEE) program – with approximately \$300 million per year in ratepayer funds.

In February 2010, the State Auditor issued a report on DCSD's progress in administering the ARRA funds and concluded that DCSD was only moderately prepared to administer the funds and that, by the end of 2009, only eight of 36 service providers were ready to begin weatherizing homes.

The State Auditor's new report dated July 11, 2011, included the following findings:

- If DCSD is not able to ensure that service providers increase both the number of homes they weatherize and the measures they install in each home, the state may not expend \$37.4 million of the ARRA award.
- DCSD's challenge in expending the ARRA funds is compounded by the fact that it is still administering nearly \$20 million in annual weatherization grant funds for the same purpose carried over from prior years, with another \$4.8 million grant still expected in 2011.
- DCSD had estimated it would weatherize 43,150 homes at an average cost of \$3,660 per home, but by April 30, 2011, had spent an average of just \$2,539 per home to weatherize 26,807 homes. Based on this production rate and lower than expected expenditures, DCSD has underspent its planned outlay by about \$30 million.
- DCSD experienced overall delays in awarding service contracts. In areas where regular service providers did not participate in the ARRA program, DCSD awarded contracts to municipalities, including the cities of Oakland, San Francisco, and Los Angeles, each of which has experienced substantial delays due to the need to build the program infrastructure from the ground up.
- Although DCSD's new weatherization protocol with more required measures became effective February 2011, DCSD is unable to estimate how much the cost per home will increase or how many homes it must weatherize to spend the remaining grant funds.
- DCSD did not complete training on the new weatherization protocol until April 2011 and has faced numerous challenges with training, including computer literacy deficiencies and lack of understanding of energy audits among weatherization workers.

- The sub-contracting that some service providers will need to utilize for implementing priority measures under the new protocol will likely increase delay in production and expenditure of funds.

In a letter to DOE dated July 8, 2011, from the DCSD Acting Director, and in ongoing discussions with DOE, DCSD is seeking a one-year extension of the March 31, 2012, deadline to expend the ARRA funds and flexibility from other program requirements that will help DCSD expend the entire \$185 million. The CPUC also is collaborating with DCSD to identify how the ESAP program may be of assistance to help DCSD increase production.

The State Auditor's letter report dated July 11, 2011, on the DCSD weatherization program is available at <http://www.bsa.ca.gov/pdfs/reports/2011-503.2.pdf>.

\$226 Million for State Energy Program Administered by CEC

The CEC was awarded \$314.5 million in ARRA funds, including \$226 million for the State Energy Program, with a deadline of April 30, 2012, for expenditure of the funds. The funds came with very broad goals and great latitude in the design of programs and allocation of dollars for energy efficiency and renewable energy. The Legislature authorized the CEC to expend the ARRA funds by making grants or entering into contracts with direction to adhere to the "principle of accountability while also adhering to existing state policies to promote energy efficiency, including green building practices, promote water conservation, promote the development and use of renewable energy resources, protect the environment, and provide green job training."

The CEC developed five guiding principles for the implementation of ARRA and the allocation of funding:

- Stimulate the economy and create and retain jobs in California;
- Achieve lasting and measurable energy benefits;
- Expend money efficiently, with accountability and minimal administrative burden;
- Contribute to meeting California's energy and environment policy goals; and
- Leverage other federal, state, local and private financing through partnerships.

The \$226 million in State Energy Program funds were focused on increasing energy efficiency to reduce energy costs and consumption, cut reliance on imported energy, and shrink energy impacts on the environment, with the following allocations:

- \$110 million for programs focused on existing residential and commercial building energy efficiency (and water efficiency) retrofits and installing on-site photovoltaic systems. The funding was to be awarded through a competitive solicitation program in three different areas: eligible institutions included local jurisdictions, non-profits and private organizations under California Comprehensive Residential Building Retrofit Program, the Municipal and Commercial Building Targeted Measure Retrofit Program, and the Municipal Financing Program.

- \$25 million was allocated to the Department of General Services for the Energy Efficient State Property Revolving Loan Program through an interagency agreement that will result in energy efficiency retrofits in state buildings.
- \$25 million was allocated to an existing program – the Energy Conservation Assistance Act, which is a revolving loan program that will provide 1% loans to cities, counties, public care institutions, public hospitals schools, colleges, and special districts to fund projects including lighting systems, pumps and motors, streetlights and LED traffic signals, building insulation, renewable and combined heat and power generation, and heating and air conditioning modifications.
- \$20 million to the Green Jobs Workforce Training Program under which the CEC, the Employment Development Department, the Employment Training Panel, and the California Workforce Investment Board, in collaboration with The Green Collar Jobs Council, are leading a statewide partnership of state agencies, educational institutions, local workforce investment boards, community organizations and employers to deliver training to fill jobs in renewable energy development, climate change strategies, vehicle fuel technology and green buildings.
- \$30.6 million to the Clean Energy Business Finance Program to provide low-interest loans and/or grants to eligible private sector businesses that use biomass material to produce biomethane gas, or manufacture and/or assemble energy efficient or renewable energy products, systems, or technologies that are commercially available and "shovel ready."
- \$15.4 million for Program Support and Contracts to audit, measure, and evaluate contracts for ARRA programs and projects.

Bureau of State Audits Review – 2009

In December 2009 the California State Auditor presented a review conducted by the Bureau of State Audits (BSA) concerning the preparedness of the CEC to receive and administer federal ARRA funds. The BSA found that the CEC was not “not fully prepared to award and monitor millions in Recovery Act funds and lacks controls to prevent their misuse.”

The BSA reported the following key findings:

- The CEC has made little progress in implementing its subprograms, and none of the ARRA funds are currently being used to provide benefits to Californians.
- The CEC has approved the use of \$51 million for State Energy Program services, and of this amount has entered into contracts totaling about \$40 million; however, none of the \$40 million has been spent.
- Although it began applying for ARRA funds in March 2009, the CEC has not yet implemented a system of internal controls adequate to ensure that those funds are used appropriately.

- The state is at risk of either having the funds redirected by the U.S. Department of Energy or awarding them in a compressed period of time without first establishing an adequate system of internal controls, which increase the risk that ARRA funds will be misused.

The BSA recommended that the CEC take the following actions:

- Take the steps necessary to quickly implement a system of internal controls adequate to provide assurance that ARRA funds will be used to meet the purposes of the ARRA.
- Promptly solicit proposals from entities that could provide the services allowable under the ARRA and execute contracts, grants, or loan agreements with these entities so that California can realize the benefit of the funds.

Bureau of State Audits Review – 2011

On July 14, 2011, the BSA issued a review on the CEC's progress in administering the funds and made the following findings:

- As of June 9, 2011, about \$183 million, or 81 percent, of the \$226 million in ARRA funds awarded to the CEC remain to be spent.
- CEC reported that \$69.9 million of the ARRA funds was already spent, but that number included transfers of funds to other programs, leaving only \$42.7 million actually spent.
- CEC reported that it had already spent \$25 million that was transferred to DGS for the state property revolving loan program, but, as of April 19, DGS had spent only \$9 million.
- CEC reported that it had already spent \$11.7 million transferred to the Clean Energy Business Finance revolving loan program, but, as of June 9, the only money actually spent was \$530,000 for administrative costs.
- CEC has an internal Recovery Act Ad Hoc Committee to oversee expenditure of funds and receive status reports from programs and subprograms but the supporting documentation required in status reports is inadequate to ensure spending is on track.
- The Auditor, after its earlier report, expected CEC to develop a plan to demonstrate that the funds will be spent by the April 2012 deadline, but CEC did not prepare one. Instead of a plan, CEC has prepared a list of reallocation options.
- Although CEC reported that it is on track to fully use the State Energy Program funds by the April 2012 deadline, it could not verify portions of its efforts to monitor the status of projects and funds awarded to subcontractors because it was not always able to provide evidence sufficient to support its assertions. Moreover, in response to various inquiries, CEC did not provide clear responses, did not present evidence to support its assertions, or did not respond to questions.

The State Auditor's letter report dated July 14, 2011, on CEC's administration of ARRA funds is available at <http://www.bsa.ca.gov/pdfs/reports/2011-503.3.pdf>.