



The Commonwealth of Massachusetts
Office of the Inspector General

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Mr. Jay Naparstek, Deputy Director
Bureau of Waste Site Cleanup
Department of Environmental Protection
One Winter Street 8th Floor
Boston, MA 02108

Dear Deputy Director Naparstek:

As you know the Massachusetts Office of the Inspector General (OIG) conducted a partial review of the U.S. Department of Environmental Protection's (DEP) American Recovery and Reinvestment Act (ARRA)-funded Leaking Underground Storage Tank Grant (LUST) that DEP received from the Environmental Protection Agency (EPA). According to DEP, it has been involved with the LUST program since 1990.

The OIG is reviewing ARRA-related grants to identify potential vulnerabilities to fraud, waste, and abuse and other risks that could negatively impact the accountability, transparency, and anti-fraud mandates contained in the statutory language and interpretive guidance of ARRA. Our review of the provided documents should not be construed as an audit, investigation, or a comprehensive programmatic review. The OIG intends these reviews to assist recipients of ARRA funding identify and address risks.

DEP received \$3,118,000 in LUST funding in FY2010. The OIG review focused on \$500,000 in grant funds that DEP set aside for municipalities based on a competitive application process. As a result of this competitive process, DEP awarded total funding of \$260,000 to projects in Taunton, Springfield, and for the Blue Hills Regional Technical High School in Canton. DEP is using the remaining grant funds (approximately \$2.8 million) for LUST projects identified previously by DEP prior to the competitive application process.

The OIG examined DEP's capacity for ensuring that ARRA grant funds had been used appropriately for the three municipal projects cited above. The OIG examination included a review of DEP's procurement methods, contract oversight practices, and grant monitoring process.

For the remediation work slated to be performed under this grant, DEP uses a list of prequalified contractors prepared previously by DEP using state procurement

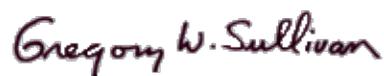
methods. When projects are to begin, including the three competitively awarded municipal projects, DEP obtains bids for this work from the contractors on the prequalified list. DEP awards the work to the lowest qualified bidder. DEP is then responsible for monitoring contractor performance, paying the contractors, and for ensuring that grant funds are appropriately used, accounted for, and that the program is compliant with ARRA requirements.

The OIG believes that DEP's use of an acceptable framework for this grant program and DEP's recent introduction of an anti-fraud program limits the vulnerability of the current ARRA funding to fraud, waste, and abuse. DEP's direct control of contractor prequalification, hiring, and payment limits errors or missteps by municipal sub-grantees that may be new to the program or that lack the resources or capacity to comply with and monitor ARRA and grant requirements. For the three municipal projects reviewed by the OIG, the municipalities had no direct involvement in the expenditure of ARRA funds. The municipalities in question identified a project in their respective communities, addressed local permitting issues, and applied for DEP funding. Once awarded, DEP assumed project management responsibility. DEP conducts a competitive procurement process for contractors, provides routine on-site monitoring and reporting of contractor progress.

The OIG identified one potential risk involving the DEP prequalified contractor list. Apparently, contractors could remain on the list for substantial periods of time without a periodic re-examination of their qualifications (i.e., had up-to-date licenses, insurance, and maintained other qualification requirements.) The OIG raised this issue to DEP staff who informed the OIG that DEP had also identified this risk and had developed a process to periodically verify the status of prequalified contractors. The OIG recommends that a review of qualifications be extended to subcontractors hired by prequalified general contractors for specific LUST projects.

The OIG believes that DEP has adequate capacity to address the accountability, transparency, and anti-fraud, waste and abuse mandates of this ARRA-funded program. We appreciate your cooperation with this review. Please do not hesitate to contact the OIG with any questions or concerns you may have regarding this review.

Sincerely,



Gregory W. Sullivan
Inspector General

cc: Debra Thomas, DEP
David Mahr, ARRA Coordinator, Executive Office of Environmental Affairs