



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

January 20, 2012

Ms. Elizabeth L. Haven, Deputy Director
Division of Financial Assistance
California State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94244-2120

Dear Ms. Haven:

Thank you for your comments, which you provided in your letter dated December 28, 2011 to members of my staff on the draft Clean Water State Revolving Fund (CWSRF) Mid-Year American Recovery and Reinvestment Act (ARRA) Program Evaluation Report (PER). We appreciate your comments and have incorporated them into the text of the final enclosed PER. This mid-year PER encompasses a review of only the CWSRF ARRA activities.

Based on our review, the California State Water Resources Control Board (SWRCB) CWSRF financial management system and procedures continue to meet applicable Federal regulations. The SWRCB also completed the required financial and program reports accurately and timely.

Thanks for the work you have done to maintain your financial systems and the CWSRF program in compliance with EPA grant requirements. While this review found no deficiencies in your EPA grant management system, the PER Section III identified several observations with recommended follow-up actions to be addressed by the end of SFY2012:

1. *review all ARRA funded projects that included force account work and reconcile their budgets to show in detail the type of work done under force account and outside contracts, and;*
2. *complete Buy American and Davis Bacon compliance inspections of ARRA funded projects and document findings concerning these requirements in the DFA project files.*

On behalf of the review team, I would like to express my appreciation for the assistance that you and your staff provided during the review. If you have questions about the report, please call me at 415-972-3420 or the EPA Region 9 California CWSRF project officer, Juanita Licata, at 415-972-3450.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Douglas E. Eberhardt".

Douglas E. Eberhardt, Manager
Infrastructure Office

Encl.

Electronic copy to:
Christopher Stevens, DFA
James Maughan, DFA
Heather Bell, DAS

**California Clean Water State Revolving Fund American Recovery and
Reinvestment Act (ARRA)
Six-Month Program Evaluation Report (PER)
Conducted in August 2011**

I. Introduction

The American Recovery and Reinvestment Act, signed into law February 17, 2009 by President Obama, made available federal monies for both the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund programs. The ARRA funds are subject to an annual and mid-year review to be carried out by the EPA. The purpose of the six-month ARRA review is to assess the cumulative program effectiveness and fiscal health of the CWSRF program in California in light of the impact of ARRA in addition to evaluating the implementation of ARRA.

EPA Region IX conducted its on-site six-month review of the California CWSRF ARRA funded activities during August 8-10, 2011. Staff from EPA Region IX and HQ along with representatives from Northbridge Environmental Management Consultants visited the State offices to review selected project files and cash draws, and talk with state management and staff about various aspects of the CWSRF ARRA-funded activities.

II. Background and Scope

The California State Water Resources Control Board (SWRCB), Division of Financial Assistance is responsible for administering the California Clean Water SRF (CWSRF) Loan Program. The California CWSRF provides low interest loans to offset the financial burden of planning, designing, and constructing water infrastructure projects.

On May 20, 2009, the State received ARRA federal assistance in the amount of \$280,285,800. No state match was required. The State committed \$269,230,043 of the ARRA funds to finance 109 projects. The remaining funds were used for administering the CWSRF. The State successfully met the programmatic and project deadlines as required under ARRA. Table I illustrates the State's success at achieving or exceeding the goals set under ARRA.

Table I

ARRA Goals	California CWSRF
Over 50% in Additional Subsidies	58.0%
Over 20% in Green Projects	28.2%
100% of \$\$\$ Under Construction Contract	100%

The following conditions and assurances regarding the required ARRA program elements have been reviewed and do not require any further discussion unless otherwise noted in Section III of this report.

Required Program Elements

- Annual Report
- Funding Eligibility
- Compliance with DBE Requirements
- Compliance with Federal Cross-Cutting Authorities
- Compliance with Environmental Review Requirements
- Operating Agreement
- Staff Capacity
- Compliance with Davis Bacon and Buy American
- Compliance with Green Project Reserve (GPR)
- Other Program Elements related to ARRA

Required Financial Elements

- Rules of Cash Draw
- Timely and Expeditious Use of Funds
- Compliance with Audit Requirements
- Assistance Terms
- Use of Fees
- Assessment of Financial Capability and Loan Security
- Financial Management
- Compliance with Additional Subsidy
- Other Financial Elements related to ARRA

The scope of the mid-year review includes consideration of the legal, managerial, technical, financial and operational capabilities of the State of California (State), specifically the California SWRCB, to manage the CWSRF ARRA program activities.

EPA Region IX used the SRF Annual Review Guidance, SRF Program Checklist, ARRA Project File Review Checklist, Transaction Testing Checklist, and data collected in the National Information Management System (NIMS) for SRFs to ensure that all major elements of the program were reviewed and discussed with the California CWSRF management and staff. Transaction testing of ARRA CWSRF cash draws as required by EPA's HQ SRF management was also performed.

Following the review, EPA prepares a midyear Program Evaluation Report (PER). The ARRA midyear PER correlates to program activities and transaction activities for the 6 month period March 2011 through August 2011. This PER highlights the review findings and identifies follow-up actions to be addressed in SFY2011/2012.

III. Observations, Suggested Follow-up, and State Comments

EPA's review assessed the program, technical, financial and project management practices as they relate to the State's ability to effectively administer ARRA CWSRF program activities. This section presents specific observations and suggests desired action items to conform to ARRA program requirements. EPA asks the State to comment on the stated Region IX observations and suggestions.

A. ARRA CWSRF Outlay Activities

Observation: As shown in Table II, California's CW ARRA SRF outlay rate is slightly above the National average. This indicator shows that California is quickly disbursing ARRA funds to construct CWSRF projects. The below figures are current as of 10/05/2011.

Table II

Clean Water SRF			
Grantee	Must Reach 100% by:	% Drawn	% Construction Completed
CA SWRCB	6/30/2013	89.72%	22.7%
National	9/30/2013	88.28%	

Follow-up: State should monitor closely federal disbursements to ensure 100% of the federal ARRA dollars are drawn by September 30, 2013. This is the expedited and new deadline set by the Office of Management and Budget (OMB memo signed on Sept 15, 2011).

State Comments: *Division of Financial Assistance (Division) staff is in process of reviewing the project completion and estimated final disbursement dates for all ARRA funded projects. Staff believes that all ARRA funds can be disbursed well in advance of the Office of Management and Budget's accelerated deadline, but we will notify USEPA if there is reason to believe that this is not feasible. Division also continues its practice of routinely monitoring all sources of funds to make expeditious use of its funds. Expected receipts and the level of obligations against each source of funds is a routine topic of discussion during the CWSRF staff's bi-monthly finance meetings. Division staff continues to refine its ability to manage cash flow and match projects with the best source of funds to make quick use of all funds available to the CWSRF. Division staff is working with Northbridge on a new report that will allow it to better select the source of funds for a particular project. Cash flow management was also one of the topics discussed with Northbridge during their CWSRF application process review in December 2011.*

B. ARRA Six-Month CWSRF Transaction Testing Review

Observation: Testing for erroneous payments was conducted on the following ARRA transactions:

CW ARRA	CW ARRA	CW ARRA	CW ARRA
7/6/2011	5/25/2011	4/21/2011	3/16/2011
\$1,393,637.00	\$36,817.84	\$3,022,626.62	\$298,266.98

No erroneous payments were found. See individual cash draw transaction checklists in **Attachment 1**.

Follow-up: None

C. ARRA CWSRF Project Review

EPA reviewed the following four ARRA project loan files. See **Attachment 2** for the individual project review checklists. Observations and necessary follow-up items from the individual checklists are discussed below.

1. Plumas Corporation 6917-110

Observation I: Project file lacked documentation that actual contracts equaled budgeted amount. However, State was able to obtain from the recipient documentation to support payments and transactions. In addition, the auditors, Clifton Gunderson, selected the 3rd payment for this loan recipient as part of their testing and did not have any exceptions. The auditor concluded that payments and related documentation were properly supported.

Follow-up: EPA discussed with the State staff the possibility of developing a review and disbursement tracking checklist to ensure all transactions (payments and deobligations) are recorded and have supporting documentation. The completion of a checklist by the State and recipient will ensure sufficient and proper review and documentation especially in light of future audits. We have attached a draft sample checklist, **Attachment 3**, for the State to review and consider for tracking disbursements. We welcome your thoughts for improving the checklist and tailoring it to your needs.

EPA also suggests the State develop written Standard Operating Procedures for reviewing and tracking disbursement requests. This could be the most effective option, as it would determine squarely who is in charge of what responsibilities, so that no activities (or invoices) are processed without adequate review.

State Comments: *Division staff agrees with the observation that disbursement and budget tracking and reconciliation should be improved for expanded-use projects such as Plumas Corp. Many of the projects for which this observation was true were ARRA projects that were originally funded with state bond funds. A tracking sheet for ARRA projects was developed, which was not included with the earlier project files. We will evaluate your sample tracking sheet and our current tracking sheet and develop a checklist to meet all needs. The Loans and Grants Tracking System (LGTS) also include a Draw Report which Division staff review to determine fund availability.*

CWSRF Administration staff has standard operating procedures for disbursing CWSRF loans (see attached). During ARRA, another unit assisted in processing financial agreements and disbursements.

Observation II: It appears that the majority of the project was identified as force account work done by Plumas Corp. with a subcontract signed between Plumas Corp and Hat Creek Construction Co. on 15 Sept 2009. However, not all signed contracts or revised budgets with “soft costs” were included in the project file to reconcile the budgeted versus actual costs. As agreed upon in the April 7, 2011, Resolution Plan, Action Item 7, all assistance recipients that use force account must revise their budgets to include details on the work done by the assistance recipient and/or contractors.

Follow-up: As stipulated in the Resolution Plan, Plumas County should resubmit to DFA a final budget to show in detail the type of work done under force account and contracts. (Force account can include work that was done in-house or “soft costs” which are costs associated with subcontract specialized tasks, such as environmental monitoring, lab testing, etc.) During the next EPA Annual Review, EPA will confirm that appropriate follow-up actions were taken by the State and that a final budget was submitted to the State by the recipient.

State Comments: *Division staff will review all ARRA funded projects that included force account work and finalize their budgets to show in detail the type of work done under force account and outside contracts. These budget summaries will be ready for USEPA confirmation during the next Annual Review. Plumas Corporation project was completed before the Resolution Plan. Staff did not prepare a final budget spreadsheet on projects that were completed/closed prior to the Resolution Plan. We will audit this project to ensure expenditures have been accounted for properly.*

2. City of Redding, 4971-250

Observation I: Documentation from the assistance recipient on utilization of the Buy American de minimis waiver appears to be kept at the project site. There is nothing in the State project files that indicates that Buy American requirements were followed or applicable forms completed by the City of Redding.

Follow-up: State should confirm with the City of Redding that all Buy American information and requirements are satisfied. This should be documented in the State project file. During the next EPA Annual Review, we will confirm that follow-up action was taken by State.

State Comments: *Division staff has scheduled a Buy American compliance inspection with the City of Redding for January 11, 2012. The inspection will determine if the City of Redding followed established Buy American procedures and requirements. The inspection report, including a copy of the final de minimis waiver worksheet will be placed into the Division project files.*

Observation II: It appears that the State or its representative has not yet completed a State ARRA site inspection report to indicate project is in compliance with Davis-Bacon; Buy American; reporting jobs created or retained; posting ARRA logo, whistleblower poster, and wage rates; and Green Project Reserve eligibility.

Follow-up: We understand the State performs inspections at intervals in accordance with the State's procedures. Please let us know if a site inspection is scheduled or has taken place, and if all compliance topics and concerns are identified and resolved in the inspection report.

State Comments: *Division staff has scheduled a Buy American and Davis Bacon compliance inspection with the City of Redding for January 11, 2012. The inspection will determine if the City of Redding followed established Buy American and Davis Bacon procedures and requirements. The Division staff inspection report will document findings concerning Buy American and Davis Bacon compliance. The Staff inspection report will be placed into the Division project files.*

D. ARRA CWSRF Program Review

The Program Review checklist was completed and is included in **Attachment 4**.

Observation I: California is in compliance with the CWSRF ARRA capitalization grant terms and conditions. With respect to the provisions of the Resolution Plan, we found the Plumas Corp project file did not contain a revised budget with details on work conducted through the force account and/or contractors.

Follow-up: It is important that the State comply with Action Item 7 of the Resolution Plan, i.e., *“The State will have all ARRA assistance recipients that use force account revise their budgets to include details on what work will be conducted by the assistance recipient and/or contractors. The State and assistance recipient will include and maintain documentation detailing the breakdown of these costs and work in their respective project file.”*

We urge you to ensure all force account activity is properly documented to avoid cause for concern in the event of a future audit.

State Comments: *All ARRA funded projects will receive a final expenditure review by the Division staff to ensure that sufficient budget reconciliation and backup documentation are available consistent with the Resolution Plan.*

E. ARRA Site Inspection

A site inspection of the City of Live Oaks was conducted during the review and did not contain any negative findings. Abimbola Odusoga of Region 9 and Kelly Kunert of HQ along with Martin Taylor with the SWRCB participated in the site inspection. See **Attachment 5**.

IV. Conclusion

We have conducted the six-month ARRA review of the California CWSRF ARRA activities in accordance with EPA's SRF and ARRA Annual Review Guidance. Based upon the file reviews, on-site project file reviews and interviews, EPA concludes that the State of California has administered the program in general compliance with the CWSRF ARRA Capitalization Grant Agreement. California is managing the CWSRF ARRA activities in accordance with State and Federal Laws and regulations.

While this review found no deficiencies in your grant management system, the PER Section III. identified the following actions to be addressed in SFY2011/2012:

(1) the SWRCB shall fulfill Action 7 of the mutually agreed upon Resolution Plan dated April 7, 2011, and prepare budget spreadsheets on ARRA funded projects (including those completed/closed prior to the Resolution Plan) that included force account work or soft costs to reconcile all final disbursements and deobligations of ARRA funds; and,

(2) the SWRCB will complete Buy American and Davis Bacon compliance inspections of ARRA funded projects and document findings concerning these requirements in the DFA project files.

Attachments

Attachment 1 CW ARRA Transaction Testing Checklists

Attachment 2 CW ARRA Project File Checklists

Attachment 3 Draft Review and Disbursement Tracking Checklist

Attachment 4 CW ARRA Program Review Checklist

Attachment 5 City of Live Oaks Project Site ARRA inspection checklist