

## Project Finance and Renewable Energy Alert

### Lessons Learned From OIG Audit Reports of Section 1603 Cash Grant Program

November 9, 2011

The Department of the Treasury's Office of Inspector General (OIG) recently released its audit reports of selected recipients of cash grants under section 1603 of the American Recovery and Reinvestment Act of 2009. The amounts challenged by the OIG were relatively small, which reflects well on the renewable energy industry. However, the OIG's audit reports does offer the following lessons.

#### Spare Parts

The reports were generally supportive of grant eligibility for spare parts, provided that, at the time the grant application is filed, title and risk of loss to the spare parts have passed to the applicant. No clear standard for spare parts was articulated in the reports. Nonetheless, given the reference by the OIG to emergency spare parts (as defined in Revenue Ruling 81-185) and by the applicant to rotatable spare parts (as defined in Revenue Ruling 69-201), it would appear that, in order to qualify for the grant, spare parts need to be reasonably necessary to operate the project in a manner consistent with prudent industry practice. In its audit report of one wind project, the OIG determined that the spare parts were not eligible for the cash grant because the applicant did not have title and risk of loss at the time the grant application was filed.

#### Tools

Similar to spare parts, tools appear to be grant-eligible under certain circumstances. No citations were provided in the reports, but, presumably, in order to qualify, tools must be necessary to operate the project in a manner consistent with prudent industry practice. In its report on one wind project, although the OIG did not specifically discuss the grant eligibility of tools, it appeared to acquiesce to such eligibility. The OIG appeared to do so on the basis that the applicant had title and risk of loss to the tools at the time of the grant application and that the applicant bought those tools new for the project.

#### Ineligible Fees and Expenses

As one would expect, the following fees or expenses associated with a building that is itself ineligible for the cash grant are not eligible costs: (i) engineering costs for the installation of potable water and septic systems in a building and (ii) permit fees for a building.

Applicants should expect continued scrutiny of grant applications by multiple functions within the federal government and at different stages in the process.



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