

STAFF REPORT

DATE: December 10, 2009
TO: Board of Supervisors
FROM: Department of Human Services (DHS)
SUBJECT: Department of Energy American Recovery and Reinvestment Act Weatherization Assistance Program Grant Contract 09C-1808.

Background

DHS has administered energy assistance and weatherization programs since the early 1980s with federally funded grants for the Low Income Home Energy Assistance Program (LIHEAP) and the Department of Energy Weatherization Assistance Program (DOE WAP).

In early 2009, the State of California became eligible to receive federal funding from the U.S. Department of Energy American Recovery and Reinvestment Act Weatherization Assistance Program (DOE ARRA WAP). This federal funding program is being administered by the California Department of Community Services and Development (CSD) on behalf of the State.

In accordance with instructions received from CSD, DHS prepared and submitted a DOE ARRA WAP Local Plan to the CSD on April 4, 2009 in an effort to secure available funding of approximately \$1.5M for services to eligible residents of El Dorado and Alpine Counties. This funding would allow for weatherization of approximately 500 structures at the State-suggested average cost of \$3,154 per structure for households at or below 200% of poverty level. The Local Plan was developed on the premise that DHS would contract out for all grant program services due to a prevailing wage requirement associated with the grant funding that would preclude use of County employees to perform the work.

Actions to Date

On June 6, 2009 the Board of Supervisors adopted Resolution #117-2009 authorizing the DHS Director to execute the initial contract with the CSD for grant start-up activities and to execute subsequent contract amendments up to the total projected funding allocation of \$1,550,962 for the period June 30, 2009 through September 30, 2011 (contingent upon approval by County Counsel and Risk Management).

On June 15, 2009 the DHS Director signed the initial CSD DOE ARRA Grant Contract 09C-1808 in the amount of \$93,518 for grant start-up activities. CSD signed the contract on June 23, 2009.

On June 25, 2009 DHS received notice from the CSD confirming that public agencies are exempt from the prevailing wage requirement when County employees perform the work. However, any work sub-contracted by the County to private contractors would be subject to prevailing wage requirements. Therefore, DHS prepared an amendment to the Local Plan to allow for County staff to provide basic weatherization services, with specialty services such as plumbing, HVAC repair/replacement contracted out via a Request for Qualifications (RFQ).

On August 25, 2009 the Board of Supervisors conceptually approved the amendment to the DOE ARRA Local Plan and authorized the DHS Director to sign and submit the Amendment to CSD by the August 30, 2009 deadline.

New Developments

Since the execution of the initial grant contract, DHS has initiated the hiring and training of extra help weatherization staff and conducted extensive outreach to identify income-eligible households and program-eligible dwellings for weatherization services. As a result of this outreach effort, approximately 600 applications have been received; however, the actual dwellings have not yet been assessed for program eligibility.

On September 30, 2009 CSD issued Amendment 1 to the grant contract allocating an additional \$662,694 in program funding for a revised total of \$756,212; extending the contract term through March 30, 2012; defining weatherization measure cost allowances; and specifying a number of reporting requirements and deadlines. The executed Amendment 1 and new Local Plan Amendment and Prevailing Wage Plan were due back to CSD by October 30, 2009.

Provisions in the Amendment 1 raised a number of questions and concerns for DHS and other contracted energy service providers, primarily in the areas of grant payment, reimbursement rates for weatherization measures, and grant reporting requirements.

In response to these concerns, on October 30, 2009 (the day Contract Amendment 1 and Local Plan amendments were due), CSD gave energy service providers the option of either executing Amendment 1 as originally issued or waiting for a revised and more clearly defined Amendment 1, provided that no further DOE ARRA WAP activities are conducted by energy service providers until Amendment 1 is executed and all associated documents are submitted to the CSD. On November 3, 2009, DHS notified the CSD that El Dorado County would await issuance of the more clearly defined Amendment 1 and suspended grant activities.

On November 11, 2009, CSD issued DOE WAP ARRA Guidance No. 6, providing summary of modified contract provisions and amended contract attachments addressing some, but not all, of the issues raised in October and indicating their intent to issue a formal contract amendment incorporating the resulting contract language revisions and budget modifications referenced in the grant guidance document. The effective date of the modifications would be retroactive to September 30, 2009. As of the date of this writing, the revised Amendment 1 has not been received by DHS.

Before proceeding further with activities under this grant and prior to executing the proposed contract amendment, DHS is providing the Board with an assessment of risks and challenges posed by grant contract requirements:

Financial Risks, Administrative Challenges and Obstacles

1. The grant contract allows only 5% of the grant funds to be used for grant administrative activities. This is a significantly lower administrative allocation than other grants, which typically provide between 8% and 12% for administrative activities, while administrative requirements of the DOE ARRA grant are significantly higher than other grants administered by DHS. For example, under this grant the County is required to develop a Local Plan and prepare frequent amendments to that plan to accommodate changes in Federal and State requirements; complete a number of monthly fiscal and program reports; submit prevailing wage plans and amendments thereto as well as frequent ad hoc reports and surveys as required by CSD; coordinate and monitor specialized training for workers on an ongoing basis; and continuously interpret and implement frequent changes in contractual language and grant guidance to ensure compliance.

Other grants administered by DHS do not have these additional requirements and based on the efforts to date DHS feels the administrative allocation is insufficient to cover the projected costs. DHS estimates that the administrative activities in support of the grant will require at least 12% of the grant allocation. This equates to \$37,811 for the current proposed grant allocation of \$756,212, or \$77,548 for the total projected grant allocation of \$1,550,962. DHS estimates that grant administrative activities will require approximately 12% of the total grant funding, or \$186,115 creating a projected gap of \$108,567 over the term of the grant.

DHS has no other funding source to cover the administrative costs associated with this grant and would have to reduce services in other discretionary programs within the Department such as Senior Nutrition, Senior Legal Services, and the Elder Protection Unit, to create sufficient savings to fund the gap.

2. The grant contract provides funding on a reimbursement basis. Historically, CSD has been slow to issue reimbursements and the County may be required to fund program activities for two to three months, or more, on an ongoing basis. This could result in cash flow deficits of approximately \$200,000 during peak activity periods.
3. The County is at risk of not being reimbursed for DOE ARRA WAP activities conducted due to difficulties in complying with all CSD requirements within the short timelines typically allowed by CSD to submit signed contract amendments, Local Plan amendments, regular and special reports, surveys other documents requested by CSD. As noted above, CSD continues to issue clarification on or after deadlines for document submittals. DHS has continually struggled to meet CSD deadlines due to limited staffing resources and at times may not be able to meet imposed deadlines, particularly if Board action is required and the allowed timeline does not provide sufficient time for agendaizing such actions. DOE ARRA WAP Contract 09C-1808 includes language that states **“CSD shall provide Contractor (EDC) with specific ARRA requirements as they are issued or are otherwise made available to CSD by the Federal Government, which requirements shall be binding on the Contractor as a condition of the Contractor’s participation in the ARRA program, and as a condition of receipt of funds under the program”**.

Additionally, the County is at risk of not being reimbursed in the event the CSD is found to be non-compliant in administering the DOE ARRA WAP grant program on behalf of the State.

Policy Questions and Options

In light of the above information, staff seeks the Board's direction on the following policy question:

- **Should the Department of Human Services proceed with the implementation of DOE ARRA WAP in light of the known and likely financial impacts and risks?**

The following options are offered for the Board's consideration:

Option 1: Pursue grant implementation

If the Board elects to pursue grant implementation it should direct DHS staff to:

1. Sign the Amendment 1 to Contract 09C-1808.
2. Submit to CSD a Prevailing Wage Plan for potential sub-contractors.
3. Submit a DOE ARRA Local Plan Package within 10 working days of CSD's approval of the Prevailing Wage Plan.
4. Return to the Board in January with the program budget reductions required to absorb the impact of administrative costs associated with DOE ARRA.

Option 2: Decline DOE ARRA funding

In recognition of the financial risks and administrative obstacles associated with this grant, DHS offers an alternative for providing weatherization services to meet the needs identified through the DOE ARRA WAP outreach effort.

Each year DHS receives LIHEAP weatherization grant funding. In 2009 DHS received an enhanced allocation of \$473,136 for the period January 1, 2009 through June 30, 2010. A similar allocation is anticipated for 2010. The income eligibility requirements for LIHEAP are equivalent to those for DOE ARRA WAP.

As a result of the outreach conducted under the DOE ARRA WAP, approximately 600 applications were received for weatherization assistance. Based on historical experience, DHS anticipates that only one in three applicants will access the weatherization services for which they applied, resulting in approximately 200 applicants receiving services. At an average cost of \$2,000 per dwelling the current year LIHEAP Weatherization funding combined with the anticipated 2010 LIHEAP allocation, would be sufficient to meet the identified need for services. Further, the LIHEAP option would allow weatherization needs to be met without negatively impacting other Department programs.

If the Board elects to discontinue DOE ARRA WAP grant activities, the Board should direct DHS staff to:

1. Cease grant implementation activities.
2. Notify CSD that El Dorado County declines to sign Amendment 1 to DOE ARRA WAP Contract 09C-1808 and exercises the 30-day mutual termination clause.
3. Proceed with processing all weatherization applications received under the enhanced LIHEAP program.