March 31, 2010

MEMORANDUM FOR: Dr. Patrick Gallagher, Director
National Institute of Standards and Technology

FROM: Dr. Brett M. Baker
Assistant Inspector General for Audit

SUBJECT: Missing Audit Reports from NIST ATP Grant Recipients
Final Report ATL – 19891

We are providing the final report on our inspection to determine the extent to which NIST grant files are missing audit reports that Advanced Technology Program (ATP) grant recipients are required to submit. NIST's Grants and Agreement Management Division is responsible for collecting and reviewing these reports and maintaining the grant files.

Our review found that NIST had not met its responsibilities to monitor the ATP awards by collecting recipient audit reports and ensuring that recipients have the required audits conducted. NIST identified 213 awards with project costs totaling $482 million that did not have audit reports as part of their records, and it did not know whether these grant recipients had actually conducted the audits.

We recommend that the director of NIST require that agency management collect the missing audit reports and provide the Office of Inspector General (OIG) with copies, suspend funding to grantees that do not provide missing reports, and ensure that NIST meets its monitoring responsibilities.

NIST management generally agreed with our assessment and informed us that they will provide an action plan to address our finding and recommendation within 30 days.

Background

ATP works through partnerships with private-sector grant recipients to develop innovative technologies that promise significant commercial payoffs and widespread benefits for the nation. ATP was set up as a cost reimbursement program that grants awards up to 5 years. Some awards require that the grant recipients provide matching funds while others are fully funded by ATP.

The program started in 1990 and received its final funding in 2007; it is scheduled to close out in 2012. ATP has been replaced by the recently created Technology Innovation Program (TIP), which provides cost-shared awards to industry, universities, and consortia for research on potentially revolutionary technologies that address critical national and societal needs.

Under Department of Commerce and NIST regulations, grant recipients must submit to NIST and OIG independent audits of project costs; the audits must be conducted at certain intervals during the performance of the project and at its completion. The reports are among the tools used by NIST project managers and grant officials to ensure federal funds are spent for their intended purpose. OIG reviews the audit reports for completeness and reportable findings and maintains a database of the audit reports. We publish the results of our review in our *Semiannual Report to Congress*, where we identify the number of reports reviewed, the federal costs audited, and the costs questioned.

Objective, Scope, and Methodology

The objectives of our review were
- to determine if NIST, as part of the grant monitoring process, obtained audit reports to ensure that grantees have obtained required project audits, and
- to identify awards that are missing audit reports, and the total related project costs. Our review covered audit reports that were due from the program's inception in 1990 through awards that expired in May 2007.

We reviewed *Department of Commerce Financial Assistance Standard Terms and Conditions, Advanced Technology Program General Terms and Conditions*, and the *ATP Proposal Preparation Kit*. We met with NIST officials responsible for grant and project oversight. We requested and obtained a list from NIST showing missing audit reports for awards that expired as of May 2007. Given the extensive time it would have taken to analyze ATP grants from the program's inception we did not verify the accuracy of the NIST information. Our work was performed in accordance with the *Quality Standards for Inspections* (rev. January 2005) issued by the President's Council on Integrity and Efficiency, and under authority of the IG Act of 1978, as amended, and Department Organization Order 10-13, dated August 31, 2006.

Finding

During our 2008 report review process, we noted a number of grant records that were missing audit reports. In April 2008, we informed NIST officials of this situation and inquired as to the total number of missing reports. In June 2009, NIST provided us with a list of 213 awards (with a total of $482 million in project costs, including federal and recipient shares) that were missing audit reports. NIST did not know whether these projects had been subject to independent audit.

The *Advanced Technology Program General Terms and Conditions, September 2007*, Section 15.B and D state:

> B. All Recipients shall schedule audits as follows:
>   1. For awards less than 24 months, an audit is required within 90 days from the project expiration date.
>   2. For 2-, 3-, or 4-year awards, an audit is required within 90 days after the end of the first year and within 90 days from the project expiration date.
>   3. For 5-year awards, an audit is required within 90 days after the end of the first year and third year, and within 90 days from the project expiration date.
> D. The Recipient shall submit two (2) copies of each audit report, one to … [OIG] and one copy to the NIST Grants Officer.

During the exit conference with OIG, NIST officials stated that the inability to collect audit reports was caused by (1) high staff turnover, (2) non-responsiveness of award recipients, and (3) the grants office's lack of legal remedies for dealing with non-compliant award recipients.

By not diligently monitoring audit report submissions, NIST did not ensure that $482 million in project costs have been properly audited. This increases the risk of misuse of federal funds. NIST needs to improve its management oversight procedures, not only to correct ATP problems but also to reduce the future risk of misuse of federal funds in ATP's successor program, TIP.

Recommendation

We recommend that the director of NIST require that agency management collect the missing audit reports and provide OIG with copies, suspend funding to grantees that do not provide missing reports, and ensure that NIST meets its monitoring responsibilities.

cc: Rachel Kinney, Audit Liaison, NIST
        Melinda Chukran, Audit Resolution Officer, NIST
        Dr. Lorel Wisniewski, Acting Director of TIP, NIST
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