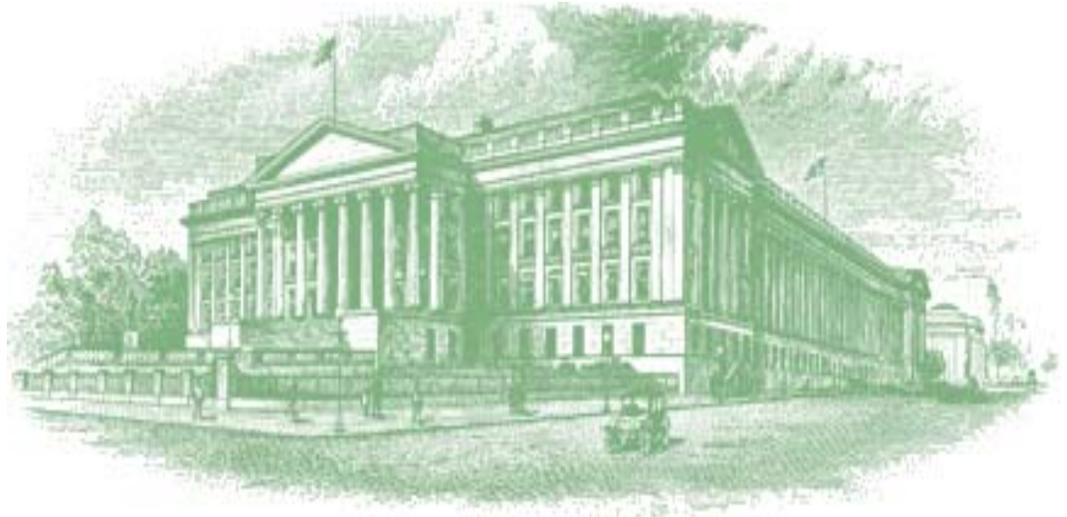




Audit Report



OIG-11-093

RECOVERY ACT: Audit of Nevada Solar One LLC Payment Under
1603 Program

August 17, 2011

Office of
Inspector General

DEPARTMENT OF THE TREASURY

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Abbreviations

AENA	Acciona Energy North America Corporation
ASE	Acciona Solar Energy, LLC
OFAS	Office of the Fiscal Assistant Secretary
OIG	Office of Inspector General
NREL	National Renewable Energy Laboratory
Nevada Solar	Nevada Solar One, LLC
Recovery Act	American Recovery and Reinvestment Act of 2009
Treasury	Department of the Treasury
Treas. Reg.	Treasury Regulation

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*The Department of the Treasury
Office of Inspector General*

August 17, 2011

Richard L. Gregg
Fiscal Assistant Secretary

As part of our ongoing oversight of the Department of the Treasury's (Treasury) 1603 Program – Payments for Specified Energy Property in Lieu of Tax Credits (1603 Program)¹ authorized by the American Recovery and Reinvestment Act of 2009 (Recovery Act),² we are conducting audits of selected award recipients. In this regard, we have audited the award made to Nevada Solar One, LLC (Nevada Solar), a solar power facility in Boulder City, Nevada. Nevada Solar submitted its claim for payment in lieu of tax credit in the amount of \$2,913,273 on October 16, 2009, and was awarded that amount by Treasury on November 13, 2009. Our audit objectives were to assess the eligibility and accuracy of that award by determining whether (1) the property existed, (2) the property was placed into service during the eligible timeframe, and (3) the award amount was appropriate.

Results in Brief

We verified that the subject property described by Nevada Solar in its 1603 Program application does exist and was placed in service on September 14, 2009, which was within the eligible timeframe. Nevada Solar's reported cost basis of \$9,710,911 for the subject property included \$24,257 for costs that we believe do not comply with Treasury's Program Guidance or Treasury Regulation (Treas. Reg.) §1.263A-1. Ineligible costs are as follows:

¹ Treasury's Office of the Fiscal Assistant Secretary (OFAS) administers this program.

² Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009). Under section 1603 of the Recovery Act, Treasury makes grants (payments) to eligible persons who place in service specified energy property and apply for such payments. The purpose of the payments is to reimburse eligible applicants for a portion of the expense of such property and are made in lieu of tax credits that could potentially be claimed by the awardees.

-
- \$22,937 for an insurance premium
 - \$1,320 for a cost accrual

As a result, we are questioning \$7,277 of Treasury's 1603 Program award to Nevada Solar (30 percent of \$24,257). We are recommending that your office (1) ensure that Nevada Solar reimburse Treasury \$7,277 for the excessive 1603 Program payment received and (2) direct Nevada Solar, Acciona Energy North America Corporation, and affiliated companies not to include in applications for 1603 Program awards inappropriate or otherwise ineligible costs in the claimed cost basis.

As part of our reporting process over 1603 Program awardees, we provided Nevada Solar an opportunity to comment on this draft report. In brief, Nevada Solar concurred with our finding but did not agree with the entire amount questioned. To that end, Nevada Solar agreed to only \$4,612 of the award we questioned. Nevada Solar's response can be found in appendix 2.

Treasury management concurred with our recommendations and said that it will take all appropriate action to seek reimbursement from Nevada Solar in the amount of \$7,277. Management's response is provided in appendix 3.

Background

Eligibility Under the 1603 Program

Applicants are eligible for a 1603 Program award if a specified energy property is placed in service during calendar years 2009, 2010 or 2011³ and the amount awarded is in accordance with provisions of the Internal Revenue Code of 1986 for determining the appropriate cost basis. Under the 1603 Program, applicants submit an application to Treasury that reports the total eligible cost basis of a specified energy property placed in service. If approved,

³ Section 707 of the "Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010" (Pub. L. 111-312, 124 Stat. 3296 (December 17, 2010)), extended Treasury's 1603 Program for 1 year. To be eligible, a property must be placed in service in 2009, 2010, or 2011 or placed in service after 2011 but only if construction of the property began during 2009, 2010 or 2011 and the credit termination date of the property has not expired. The application deadline was extended to September 30, 2012.

award amounts are based on a percent of the eligible cost basis. For the type of property claimed by Nevada Solar, the percentage of the cost basis eligible for award is 30 percent. According to OFAS program guidance, the cost basis of the subject property is determined in accordance with the general rules for determining the cost basis of property for federal income tax purposes. Specifically, for this type of property, applicants follow the capitalization procedures found in Treas. Reg. §1.263A-1, "Uniform Capitalization of Costs."⁴

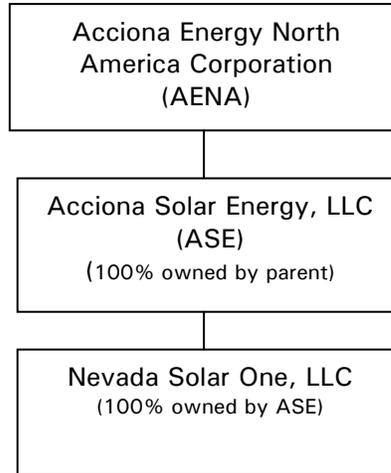
Nevada Solar

Nevada Solar is a 64 megawatt solar power facility located in Boulder City, Nevada, and is wholly owned by Acciona Solar Energy (ASE), a subsidiary of Acciona Energy North America Corporation (AENA). The parent company of AENA is Acciona, S.A., a foreign corporation headquartered in Spain. To date, AENA affiliates have received \$70 million in 1603 payments. The relationship of these entities is shown in figure 1.

In order to increase its solar power facility's heat collection during periods of less intense sunlight, Nevada Solar increased the number of its solar collector assemblies from 760 to 800. The expansion increased Solar Nevada's expected electrical output from 120,477 to 126,785 megawatt hours per year. The additional 40 solar collector assemblies were placed in service on September 14, 2009.

⁴Treas. Reg. §1.263A-1(a)(3)(ii), Property produced: "Taxpayers that produce real property and tangible personal property (producers) must capitalize all the direct costs of producing the property and the property's properly allocable share of indirect costs (described in paragraphs (e)(2)(i) and (3) of this section), regardless of whether the property is sold or used in the taxpayer's trade or business."

Figure 1.



Objectives, Scope, and Methodology

To assess the eligibility and accuracy of the award made to Nevada Solar under the 1603 Program, we determined whether (1) the property existed, (2) the property was placed into service during the eligible timeframe, and (3) the award amount was appropriate.

In performing our work, we visited Nevada Solar's parent company, AENA, in Chicago, Illinois; interviewed key personnel of AENA; reviewed the application and related documents used by the Department of Energy's National Renewable Energy Laboratory (NREL);⁵ and reviewed documentation used to support the existence, the in-service date, and the costs claimed by Nevada Solar. For the costs claimed, we tested transactions representing 88 percent of those costs. We performed our work between January 2011 and March 2011.

Our audit was conducted in accordance with generally accepted government auditing standards for performance audits. Those standards require that we plan and perform an audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We

⁵ NREL is a national laboratory of the Department of Energy. Under an interagency agreement between Treasury and Department of Energy, NREL performs the technical review of 1603 Program applications and advises Treasury on award decisions.

believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Results

Questioned Costs⁶ in Nevada Solar's Claimed Cost Basis

Cost Description	Cost Basis
Total claimed cost basis	\$9,710,911
Questioned costs:	
Insurance premium (Note 1)	\$22,937
Unsupported cost accrual (Note 2)	\$1,320
Total questioned cost basis	(\$24,257)
Recalculated cost basis	\$9,686,654
Recalculated award (30% of recalculated cost basis)	\$2,905,996
Amount Awarded	(\$2,913,273)
Overpayment resulting from questioned costs	(\$7,277)

Note 1. Insurance Premium (\$22,937 questioned costs)

Nevada Solar included \$22,937 in the subject property's cost basis for an insurance premium covering heat collection element (HCE) tubes which were not used in the expansion of Nevada Solar's collector assemblies. According to AENA's Vice President of Accounting, the HCE tubes actually used in the Nevada Solar expansion were insured through the contractor's builder risk policy. Therefore, the insurance premium is neither a direct nor allocable indirect cost of producing the property and should not be included in the subject property's cost basis.

Note 2. Unsupported Cost Accrual (\$1,320 questioned cost)

Nevada Solar included an accrual of \$1,320 in the subject property's cost basis that was unsupported. According to AENA's Vice President of Accounting, the unsupported cost resulted from overestimating an accrual for a purchase order that was not adjusted to reflect the actual amount invoiced and paid. Therefore,

⁶ See appendix 1 for the definition of questioned costs.

the unsupported cost should not be included in the subject property's cost basis.

Nevada Solar Response

Nevada Solar concurred with our questioned costs for the insurance premium and unsupported cost accrual. However, management stated that other claimed cost accruals were understated by a net amount of \$7,564. Therefore, it agrees with a reduction in the claimed basis of \$15,373 which would result in a \$4,612 adjustment to its award.

OIG Comment

We reviewed Nevada Solar's response and do not agree with the proposed adjustment to the questioned costs. In a table provided in its response, Nevada Solar identified certain cost accruals that were claimed to be understated. These accruals resulted in \$7,564 of additional costs which were not included in the cost basis of the subject property nor were they part of our audit sample since they were not claimed. It should be noted that these adjustments were identified by Nevada Solar after our site visit and are therefore unaudited. For certain items on the table, the adjustments to the cost accruals were based on invoices that were dated before Nevada Solar's claim. It is unclear why the claim was not based on the actual costs for these items.

See appendix 2 for Nevada Solar's response.

Recommendations

We recommend that the Fiscal Assistant Secretary do the following:

1. Ensure that Nevada Solar reimburse Treasury \$7,277 for the excessive 1603 Program payment received for the subject property.
2. Direct Nevada Solar, Acciona Energy North America Corporation, and affiliated companies not to include in

applications for 1603 Program awards inappropriate or otherwise ineligible costs in the claimed cost basis.

Management Response

Management concurred with our recommendations and said that it will take all appropriate action to seek reimbursement from Nevada Solar in the amount of \$7,277.

OIG Comment

Management's response meets the intent of our recommendations.

* * * * *

The information in this report should not be used for purposes other than what was originally intended without prior consultation with the Office of Inspector General regarding its applicability. Information contained in this report may be confidential. The restrictions of 18 U.S.C. §1905 should be considered before the information is released to the public. We appreciate the courtesies and cooperation provided to our staff during the audit. If you wish to discuss this report, you may contact me at (202) 927-5400 or Donna Joseph, Audit Director, at (202) 927-5784. Appendix 4 lists the major contributors to this report.

/s/

Marla A. Freedman
Assistant Inspector General for Audit

A questioned cost is a cost that is questioned by the auditor because of an audit finding: (1) which resulted from an alleged violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds; (2) where the costs, at the time of the audit, are not supported by adequate documentation; or (3) where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances. Questioned costs are to be recorded in the Joint Audit Management Enterprise System (JAMES). The questioned costs will also be included in the next Office of Inspector General Semiannual Report to the Congress.

<u>Recommendation Number</u>	<u>Questioned Costs</u>
Recommendation 1	\$7,277

The questioned costs relate to excessive funds that Treasury awarded to Nevada Solar under the 1603 Program. The amount questioned is 30 percent of the excessive costs included in Nevada Solar's cost basis. As discussed in the audit report, the questioned costs in the cost basis consist of two components: (1) \$22,937 associated with an insurance premium and (2) \$1,320 associated with an unsupported cost accrual.

Appendix 2
Nevada Solar One LLC's Response



ACCIONA Energy North America Corporation

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Fax: 312.673.3001
www.acclona-na.com

May 5, 2011

Ms. Marla A. Freedman
Assistant Inspector General for Audit
Office of the Inspector General
Department of the Treasury
740 15th Street, N.W., Suite 600
Washington, D.C. 20220

Dear Ms. Freedman:

We are responding, on behalf of Nevada Solar One, LLC to your audit report dated April 5, 2011, regarding the award made under the Department of the Treasury's 1603 Program- Payments for Specified Energy Property in Lieu of Tax Credits. The report questions \$7,277 of the \$2,913,273 award received November 13, 2009, by Nevada Solar One.

We would like to express our appreciation for the chance to comment on the report and the additional time we were granted in order to research the cost items in question. The company's detailed response to each of the questioned items is attached. In summary, we agree with a reduction in the claimed basis of \$15,373 and a resulting adjustment in the award of \$4,612. Consistent with the terms and conditions of the 1603 Program, management is prepared to return the funds to the United States Department of Treasury when provided repayment instructions.

Please feel free to contact me directly with any questions or concerns regarding this matter at 312-673-3045 or bfarrell@acciona-na.com.

Kind Regards,

A handwritten signature in black ink, appearing to read 'Brian M. Farrell'.

Brian M. Farrell
Vice President Accounting
Acciona Energy North America

Enclosure

Nevada Solar One 1603 Program Audit- Company Comments

Note 1. Insurance Premium (\$22,937 questioned cost)

The audit report accurately reflects the adjustment needed to this item that was included in the cost basis of Nevada Solar One. The inclusion of this amount related to a coding error for processing the overall company insurance invoice. The cost basis should be reduced by \$22,937.

Note 2. Unsupported Cost Accrual (\$1,320 questioned cost)

The audit report identifies an accrual of \$1,320 that resulted in an overstatement of the cost basis due to actual costs incurred differing from the accrual amount. Nevada Solar One management does not dispute that this particular item tested by the audit team in fact had the difference identified. The difference related to the supplier not charging shipping as anticipated.

However there were additional estimates made in the calculation of the cost basis that had different actual costs. Some actual costs were higher than the estimate included in the basis calculation and some were lower. Management reviewed all of these items and determined that the net difference to the basis filing was an understatement of the project costs by \$7,564. Management noted these other differences at the time of the audit, but was instructed that the variances on items that were not selected for testing would not be considered in the audit results. The detail of the cost items and their variances from the filing is attached in the Appendix.

Appendix 2
Nevada Solar One LLC's Response

Appendix- Estimated vs Actual Cost Basis Variances

Vendor Name (Can't Be same as Budget Cat)	Invoice Number	Invoice Date	Qualified? (1=Yes, 2=No)	Total Contract/PO Amount \$	Invoiced Amount To Date	Contract/PO Variance
Foley	29089921, 29081226, 29104495, 29128364, 29057225	01/23/09	1.00	\$3,733.72	\$2,690.40	\$1,043.32
GC-Tradewinds	Contract and Change Orders	04/30/09	1.00	\$3,138,690.22	\$3,136,031.44	\$2,658.78
REXEL, Inc.	800724897 800749324 80072707 800782667	07/24/09	1.00	\$1,409.90	\$1,827.58	-\$417.68
Acrona Solar Power	237,100209, 083109, 080109		1.00	\$169,799.00	\$175,930.82	-\$6,131.82
RW Beck	113377	11/17/09	1.00	\$10,000.00	\$7,101.75	\$2,898.25
RW Beck	113376	11/17/09	1.00	\$10,000.00	\$4,910.50	\$5,089.50
Deloitte	8001069795	11/23/09	1.00	\$25,000.00	\$27,500.00	-\$2,500.00
Dow Chemical	27803573	11/23/09	1.00	\$88,193.00	\$86,873.49	\$1,319.51
Sales Tax on Tubes, Guardian Invoice, Dow Chemical Invoice		12/23/09	1.00	\$92,295.00	\$95,271.00	-\$2,976.00
Sales Tax Invoice Quarter ended 12-31-09 Additional Tax excluding DOW	Tax Return	12/31/09	1.00	\$0.00	\$8,547.56	-\$8,547.56
					Total Variance	-\$7,563.70

Appendix 3
Management's Response



ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

August 10, 2011

Marla Freedman
Assistant Inspector General for Audit
Department of the Treasury
Office of Inspector General
740 15th Street, N.W., Suite 600
Washington, D.C. 20220

Dear Ms. Freedman:

Thank you for the opportunity to comment on the draft audit report of the Section 1603 award made to Nevada Solar One, LLC.

We generally concur with the recommendations contained in the report and will take all appropriate action to seek reimbursement from Nevada Solar One, LLC in the amount of \$7,277.

Sincerely,

Richard L. Gregg
Fiscal Assistant Secretary

Appendix 4
Major Contributors To This Report

Donna Joseph, Director
Erica Wardley, Audit Manager
James Hodge, Auditor in Charge
Cheryl Sroufe, Auditor
Rachael Draper, Auditor
Jenny Hu, Referencer

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and Chief Performance Officer
Fiscal Assistant Secretary
Deputy Chief Financial Officer
Director, Office of Accounting and Internal Controls
Deputy Director, Office of Performance Budgeting
Program Manager, Office of Fiscal Assistant Secretary

Office of Management and Budget

OIG Budget Examiner

Acciona Energy North America Corporation

Chief Financial Officer
Vice President, Accounting

