Sequestration Reduces Treasury Grant Awards to Renewable Energy Projects by 8.7 Percent

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According to Treasury Department guidance issued March 4, 2013, grants awarded to renewable energy project owners under the Treasury's Section 1603 grant program on or after March 1, 2013 will be reduced by 8.7 percent due to sequestration – the federal budget cuts that began to take effect March 1, 2013.

The brief guidance explains that, while sequestration "was never intended to be implemented," now that it is in effect, it requires "indiscriminate across-the-board cuts." As applied to the Section 1603 grant program, "every award" made to grant applicants on or after March 1, 2013 will be reduced by 8.7 percent, "irrespective of when the application was received by Treasury."

In this context, an "award" is treated as made on the date of the final decision by Treasury to pay a claim as evidenced by the date of the "Section 1603 Award Letter" issued by Treasury to an applicant. Applicants will not be permitted to adjust their grant award applications to account for the impact of sequestration.

The guidance further explains that "The sequestration reduction rate [of 8.7 percent] will be applied until the end of the fiscal year (September 30, 2013), at which time the sequestration rate is subject to change."

Grant awards made prior to March 1, 2013 under the program will not be affected.

Because the reduced grant rate relates to the effective date of a Section 1603 Award Letter – as opposed to the date on which a project was placed in service or the application filing date – the cuts to the program could negatively impact renewable energy projects that have already been placed in service, as well as projects currently under development, that have incorporated the grant funding into their budgets and contracts.

Section 1603 of the American Recovery and Reinvestment Act of 2009 provides for grant awards for specified energy property in lieu of tax credits. According to a report issued by the U.S. House Energy and Commerce Committee in January 2013, an estimated $6 billion remains to be paid out under the program. Technically, the grant program expired at the end of 2011 but payouts under the program continue because of a provision in the law permitting projects that began construction by December 31, 2011 to qualify for the grants.

Going forward, Congress still has an opportunity to avoid or minimize the effect of the federal budget sequestration. However, whether and to what extent Congress will act is uncertain. Accordingly, for the time being, the sequestration cuts to the Section 1603 grant program are a reality.
