



March 15, 2019

To: Federal Co-Chair
ARC Executive Director
ARC General Counsel
ARC Director, Critical Infrastructure
ARC Director, Business & Workforce Investment
ARC Assistant General Counsel

From: ARC Inspector General, Hubert Sparks

Subject: Report 19-20, Follow-up on Reports 18-38, Open ARC Administered Grants;
18-39, Open States Administered Grants & 18-40, Open Basic Agency Grants

This memorandum report summarizes ARC and OIG comments with respect to ARC responses to recommendations in OIG Reports 18-38, 18-39 & 18-40, open ARC administered grants, open States administered grants & open Basic Agency administered grants and updated action on grants noted in these reports.

ARC generally concurred with the recommendations and identified processes and actions to address the issues noted. OIG comments pertain to issues for which continuing emphasis is considered appropriate. We appreciate the initial ARC follow-up actions that included contacts with ARC project coordinators with respect to ARC and some State and Basic Agency Administered grants. This resulted in actions to deobligate or cancel \$916,701 pertaining to 15 grants as of February 5, 2019 (Table A). Additional grants were identified for actions including closings and deobligations.

ARC follow-up on additional State and Basic administered grants will be coordinated with the receipt of annual Basic Agency Monitoring Reports (BAMR) due by February 19, 2019.

The audit samples were based on grants considered most appropriate for continuing follow-up.

For background, ARC directly administers most grants for economic development that do not involve infrastructure projects and utilizes State and Federal agencies with expertise in construction related grants. A key element of infrastructure projects is an annual Basic Agency Monitoring Report (BAMR) provided by the administering agency that summarizes the project status including project expenditures, issues/problems restricting project completion and revised estimated project construction and completion dates. The reports are due early in the fiscal year.

Although the BAMR is a valuable management tool current and prior reviews of these reports have identified a significant number of instances where these reports were identified by ARC as past due or not received. Also, with respect to some grants for which significant project extensions were granted the BAMR does not identify the issue restricting project implementation but only identifies a revised estimated construction and completion date.

The noted OIG reports summarized issues related to inactive grants, including grants with no payments and approved or obligated at least two years previous and BAMRs that indicate status of grant including grant implementation problems and recommendations for cancellations, grants with expired performance periods, and grants with small and zero balances.

The reports emphasized follow-up actions with respect to noted grants and especially Federal Basic Agency administered grants. For example, report 18-40, identified 7 grants totaling \$1,219,989 approved between March 3, 2011 and September 24, 2015 for which no ARC payments were made and prior BAMRs recommended actions to close, cancel, deobligate or reallocate funds for other projects. 4 of the 7 cases were also included in OIG reports in 2014 or 2015. These grants remain open.

In other cases, the BAMR indicates significant issues on older grants that highlight the need for follow-up actions. For example, the last three BAMRs for a \$200,000 grant notes no activity and an October 25, 2017 report notes project is not moving forward. A February 3, 2017 BAMR for a \$300,000 grant noted estimated completion November 1, 2015.

We recognize that information necessary for ARC action was not timely received from the Federal Basic Agency in some cases and ARC has attempted to receive needed information. Thus, a supplemental recommendation is ARC action that would permit ARC closing of inactive grants based primarily on BAMR recommendations when timely closing information is not received from the Basic Agency.

ARC responses, copies attached, note that follow-up actions identified grants for which the grant status was considered appropriate based on file review and contact with ARC Project Coordinators. Also, grants were identified as being in the process of being closed, cancelled, being held open pending final reports, delayed due to environmental reviews, required rebidding and held up by the basic agency.

The OIG reports also included grants with recently expired performance periods and large ARC balances and grants for which ARC follow-up action was emphasized. These grants were included for additional follow-up and action where necessary based on the potential for ineligible payments for direct project expenditures after the identified performance periods.

For example, the prior reports identified 58 grants with expired end dates and ARC balances of over \$50,000 totaling \$11,715,792. As of 2/8/19, 34 of these grants had expired end dates and balances totaling \$7,009,017. Actions to date on the previously reported grants included some closings, deobligations, payments and end date extensions. The majority of the reported and current grants with expired end dates and larger ARC balances involved Basic Agency administered grants.

Overall, OIG recommendations were directed at grants in prior audits or monitoring reports where the same condition was reported. ARC policies and controls were considered adequate and the issues noted in the reports relate primarily to implementation of controls and timely and definitive action where the control was not effective. Of particular significance are grants identified in consecutive OIG reports for which actions such as expired performance periods and no payments were identified and grants identified in BAMRs as subject to cancellation or with long term issues restricting project initiation.

The responses note ARC actions or controls to address issues related to older grants with no reported ARC payments and expired performance periods, including grants with substantial ARC balances. These include automatic e-mail reminders to agencies responsible for BAMR and automated quarterly e-mails to notify basic agencies about expired grants under their management and that ARCs electronic system does not allow basic agencies to draw down funds outside a grant performance period. With respect to inactive or delayed grant implementation ARC guidance notes that the Commission based on a State request can revise or revoke grant approval if the work intended is not underway within 18 months of grant approval. OIG reports emphasized 24 months for review purposes since we agree with ARC comments that factors such as environmental approvals, construction permits, or other legal requirements can delay grant implementation. Other factors such as obtaining matching funds, easements, rights of way, necessary rebidding and change of scope can also delay project start up and completion.

ARC did not concur with recommendation 3 in Report 18-40, Basic Agency administered grants. The recommendation was "Revise ARC Guidance with respect to possible actions on inactive grants and emphasize implementation of policy with respect to project start up and grantee extension of reporting periods."

We understand and agree with the response that notes increased use of the State Basic Agency administered program is an effective action. OIG is also aware and agrees with ARC efforts to obtain necessary information from Federal Basic Agencies on a timely basis and the recommendation is directed at these agencies. OIG previously recommended updating old Memorandums of Understanding with Federal Basic Agencies and the recommendation in Report 18-40 is directed at ARC actions, if possible, such as ARC unilaterally initiating grant action including grant closings if necessary information is not received timely from Basic Agencies.

TABLE A

Deobligations subsequent to grants included in Reports 18-38, 18-39 & 18-40

<u>Admin Agency</u>	<u>Grant #</u>	<u>Amount deobligated</u>	<u>Date</u>
ARC	NY-18537	\$24,000.00	10/24/2018
	NY-18539	\$55,045.00	10/3/2018
	TN-18215	\$88,000.00	10/25/2018
	NC-18030	\$8,562.00	1/8/2019
	SC-18903	\$168,357.00	1/8/2019
	SC-17832 C-1	\$34,344.00	12/19/2018
	NC-18320	\$82,066.00	10/12/2018
	WV-14334 C-14	\$20,893.00	11/15/2018
	MS-17883 C-1	\$946.00	11/5/2018
	PA-18967	\$16,764.00	12/14/2018
STATE	AL-18151	\$58,344.00	1/7/2019
	AL-18121 C-1	\$85,000.00	12/4/2018
	OH-17731	\$18,481.00	12/14/2018
	PW-18678	\$5,899.00	1/22/2019
RD	<u>TN-17907</u>	<u>\$250,000.00</u>	1/23/2019
	15	<u>\$916,701.00</u>	



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MEMORANDUM

December 4, 2018

To: Hubert Sparks
Inspector General

Through: Charles Howard
General Counsel

From: Nancy Eyl *NE*
Assistant General Counsel

Subject: Office of Inspector General (OIG) Draft Report OIG 18-38—*Open ARC-Administered Grants*

Thank you for the opportunity to review and respond to OIG draft report, *Open ARC-Administered Grants*. The Appalachian Regional Commission (ARC) appreciates your work in planning and conducting this review as we continue to enhance our programs. We also appreciate the opportunity to respond to the findings and recommendations in this report. We agree with all three recommendations and offer the following comments for your consideration in finalizing the report.

We offer the following comments for your consideration in finalizing the report.

Recommendation 1: Follow-up action should be initiated on identified grants to determine potential actions including deobligations and use of funds for other priority projects.

Response: Concur. We agree that it is important to follow up on all grants identified to determine potential actions including deobligations. Timely deobligating unspent funds is a priority for ARC. In fiscal year 2017 alone, we deobligated over \$3.4 million out of \$24 million approved grant funds.

To address the grants identified in this review, we met with the responsible ARC grants coordinator for each grant, with the intention of determining the potential for closing grants or using funds for other needed projects. We found that many grants were in the process of being closed; several had already been closed; several were cancelled; and several were being held open pending actions such as submitting a final report. As a result, we believe that many of the grants identified in the draft report do not belong there. We will continue to follow up on any remaining grants as necessary.

Recommendation 2: Emphasis should be placed on supporting grant extensions to better assure avoidance of ineligible expenditures.

Response: Concur. We believe that emphasis should be placed on ensuring that grant expenditures are made during the grant period. We believe that we provide that emphasis through our policies and procedures, which allow grantees to request and receive an extension of the project performance date. We only approve such requests if a reasonable justification is provided. This process ensures that few grants' end dates expire before closeout. Of the twenty-two (22) grants identified with expired end dates and balances of greater than \$50,000, five (5) have been closed; six (6) are nearly closed; one (1) is being cancelled; and at least three (3) were extended. Notably, none of the identified grants had considerable expired end dates. Nearly all expired within the past few months, and only two expired in 2017.

Recommendation 3: Grantee should be notified about requesting and supporting grants extensions prior to the identified end date.

Response: Concur. Currently, the electronic ARCnet system notifies grantees two weeks before progress reports are due, which occurs every four months. This notification is sent regarding final reports, as well. We will consider editing this automatic notification to include information regarding requesting and supporting a grant extension as necessary.

We would be very happy to discuss these recommendations further at your convenience. Again, thank you for the opportunity to review and comment on this draft report. Addressing the issues raised in the report will strengthen ARC's operations. We look forward to working with you in the future.



MEMORANDUM

December 3, 2018

To: Hubert Sparks
Inspector General

Through: Charles Howard
General Counsel

From: Nancy Eyl *NE*
Assistant General Counsel

Subject: Office of Inspector General (OIG) Draft Report OIG 18-39—*Open State-Administered Grants*

Thank you for the opportunity to review and respond to OIG draft report, *Open State-Administered Grants*. The Appalachian Regional Commission (ARC) appreciates your work in conducting this review as we continue to enhance our programs. We also appreciate the opportunity to respond to the findings and recommendations in this report. We agree with both recommendations and offer the following comments for your consideration in finalizing the report.

Recommendation 1: Follow-up action should be initiated on identified grants to determine potential actions including deobligations and use of funds for other priority projects.

Response: Concur. We agree that it is important to follow up on each identified grant to ensure that potential actions such as deobligations are made so that funds may be devoted to other projects. Deobligating unused grant funds is a priority for ARC; in fiscal year 2017 we deobligated over \$1.67 million of ARC funds administered by state basic agencies.

However, follow up action at this time appears untimely. As the OIG pointed out, we rely on annual Basic Agency Monitoring Reports (BAMR) for information on the status of state basic agency-administered grants. BAMR reports are due once a year, in February. On November 26, 2018, ARC sent automated email reminders to forty-three (43) agencies that have BAMR deadlines on February 11, 2019. Rather than overtaking this process, we will follow up on all the grants after the BAMR deadline, starting on February 12.

That said, we reviewed BAMRs for about half of the grants identified. We believe that the comments conveyed sufficient information to justify why a payment was not made or why a balance was still recorded. For example, one BAMR noted that the ARC project would be constructed along a new roadway that would not be completed until November 2018. Another BAMR noted a delay caused by weather. Several of the grants identified were already closed.

Recommendation 2: Emphasis should be placed on supporting grant extensions to better assure avoidance of ineligible expenditures.

Response: Concur. We believe that emphasis should be placed on ensuring that grant expenditures are made during the grant period and have taken steps to ensure compliance. In January 2017 ARC's electronic system began sending automated quarterly emails to notify basic agencies about expired grants under their management. We believe that this practice has served to remind basic agencies about the importance of following up on performance end dates. In addition, ARC's electronic system does not allow basic agencies to draw down funds outside a grant's performance period. Any attempt to do so will be met with an error message. This further protects ARC funds from being expended outside the performance period.

We would be very happy to discuss these recommendations further at your convenience. Again, thank you for the opportunity to review and comment on this draft report. Addressing the issues raised in the report will strengthen ARC's operations. We look forward to working with you in the future.



MEMORANDUM

December 4, 2018

To: Hubert Sparks
Inspector General

Through: Charles Howard
General Counsel

From: Nancy Eyl *NE*
Assistant General Counsel

Subject: Office of Inspector General (OIG) Draft Report OIG 18-40—*Open Basic (Child) Agency Administered Grants*

Thank you for the opportunity to review and respond to OIG draft report, *Open Basic (Child) Agency Administered Grants*. The Appalachian Regional Commission (ARC) appreciates your work in conducting this review as we continue to enhance our programs. We also appreciate the opportunity to respond to the findings and recommendations in this report.

We offer the following comments for your consideration in finalizing the report.

Recommendation 1: Follow-up actions with respect to grants noted without any ARC disbursements should be continued with emphasis on grants approved several years previous for which limited activity was noted including grants recommended for deobligation.

Response: Concur. We agree that it is important to follow up on the identified grants and ensure that deobligations occur timely. However, at this time we are in the process of waiting to receive status reports about the grants. As the OIG points out, we rely on annual Basic Agency Monitoring Reports (BAMR) for information on the status of basic agency-administered grants. BAMR reports are due once a year, in February. On November 26, 2018, ARC sent automated email reminders to forty-three (43) agencies that have BAMR deadlines on February 11, 2019. Rather than overtaking this process, we will follow up on all the grants after the BAMR deadline.

That said, a review of basic agency BAMR revealed that several projects will be cancelled; several are delayed due to the environmental review process or a required rebidding; and some are held up by the basic agency. Regarding this last issue, we have made headway in revamping our basic agency program to reduce unnecessary delays.

Specifically, within the past several years we have worked hard at expanding our state basic agency program, which not only has given us more control and oversight over our grant funds, but also has resulted in greater efficiencies for the grantees. We have greater access to information and are able

to deobligate funds more quickly and efficiently. Based on our success with the state basic agency program, we expect to see fewer grants that are inactive due to a basic agency.

Recommendation 2: Expired performance dates should be addressed based on grantee requests and support for needed extensions.

Response: Concur. If a grantee needs more time to complete a project managed by a basic agency, OMB and ARC offer guidance on how to request an extension. Specifically, OMB regulations at 2 C.F.R. 200.308(d)(2) authorize federal agencies to extend the period of performance by up to 12 months. The recipient must notify the federal awarding agency in writing with the supporting reasons and revised period of performance at least ten (10) calendar days before the end of the period of performance specified in the grant.

ARC authorizes basic agencies to grant limited time extensions to the grant performance period without requiring ARC review or permission. When a basic agency amends the project's performance period, the agency is requested to enter the new end date in the BAMR. ARCnet tracks all original end dates as well as any amendments.

Recommendation 3: Revise ARC guidance with respect to possible actions on inactive grants and emphasize implementation of policy with respect to project startup and grantee extensions of performance periods.

Response: Non-concur. We understand the OIG's concern about "inactive" grants. However, many such grants are not inactive but rather are in a long process involving environmental approvals, construction permits, or other legal requirements. Most projects are started in a timely manner, particularly since we instituted the state basic agency-administered program. A recent analysis showed that state basic agency-administered construction grants average a start-to-end performance period of 18 months. Compare that to the federally administered construction grants, which average double that time. We believe that we do not need to institute new policies at this point given our strides with the state basic agency program.

Recommendation 4: Grants with zero balances should be closed as soon as practical.

Response: Concur. We agree that grants with zero balances should be closed as soon as practicable after the last payments; this is a priority at ARC. After basic agencies submit a final BAMR report, which is required for grant closeout, the grants coordinator runs a BAMR Possible Closeouts Report. We analyze the results and prioritize closing projects that have a zero funds balance.

We would be very happy to discuss these recommendations further at your convenience. Again, thank you for the opportunity to review and comment on this draft report. Addressing the issues raised in the report will strengthen ARC's operations. We look forward to working with you in the future.