

JUSTICE NEWS

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SOLARCITY AGREES TO RESOLVE ALLEGED FALSE CLAIMS ACT VIOLATIONS ARISING FROM RENEWABLE ENERGY GRANT CLAIMS TO TREASURY

The Justice Department announced today that SolarCity Corporation (SolarCity) has agreed to pay \$29.5 million to resolve allegations that it violated the False Claims Act by submitting inflated claims on behalf of itself and affiliated investment funds to the U.S. Department of the Treasury (Treasury) pursuant to Section 1603 of the American Recovery and Reinvestment Act of 2009 (Section 1603). As part of the settlement, SolarCity and its affiliates will also release all pending and future claims against the United States for additional Section 1603 payments. SolarCity was purchased by Tesla Motors Inc. in November of 2016, after the alleged conduct at issue in this case.

“The Section 1603 Program subsidized the renewable energy industry through cash grants to cover legitimate costs of renewable energy properties,” said Acting Assistant Attorney General Chad A. Readler of the Justice Department’s Civil Division. “This program expired, but this settlement demonstrates that the government will still hold accountable those who sought to take improper advantage of government programs at the expense of American taxpayers.”

Under the Section 1603 Program, the Treasury paid a cash grant equal to 30 percent of the eligible cost basis to construct or acquire qualified renewable solar energy systems placed in service before Dec. 31, 2016. The Treasury required applicants to certify that each Section 1603 grant application accurately set forth the cost basis of the system, and that all supporting information was true, accurate, and complete.

Beginning in 2009, SolarCity submitted thousands of Section 1603 claims on behalf of itself and affiliated investment funds. The government alleged that SolarCity falsely overstated the cost bases of its solar energy properties in its

certified Section 1603 claims to the Treasury and, as a result, SolarCity and its affiliated investment funds received inflated grant payments from the Treasury.

“Treasury’s Office of Inspector General appreciates the hard work of the Department of the Treasury and the Department of Justice in supporting Treasury OIG’s mission to protect the programs and operations of Treasury from fraud, waste and abuse,” said Inspector General Eric Thorson for the Office of Inspector General (OIG) for the Department of the Treasury. “Treasury OIG will continue its work to investigate instances of fraud impacting the American Reinvestment and Recovery Act grant programs, that are operated by the Treasury, and paid for by the American taxpayer to ensure that the money distributed by Treasury follows the law and is used for its intended purpose.”

“Treasury appreciates the substantial efforts of the Department of Justice and Treasury’s Office of Inspector General in pursuing this years-long investigation that was initiated following a referral from the Section 1603 Program staff,” said Treasury Fiscal Assistant Secretary David A. Lebryk. “This settlement sends a clear message that, working with the Department of Justice and the Office of Inspector General, Treasury will pursue any fraud or abuse in programs that it administers in order to protect the taxpayer.”

As part of the settlement, SolarCity has agreed to dismiss a lawsuit filed in the Court of Federal Claims by two investment funds affiliated with SolarCity arising from allegations that Treasury underpaid certain Section 1603 applications, and to release any other potential claims for additional Section 1603 payments. The lawsuit is captioned Sequoia Pacific Solar I, LLC v. United States, No. 13-139C (Fed. Cl.).

This settlement was the result of a joint investigation conducted by the Treasury, the Treasury OIG, and the Civil Division’s Commercial Litigation Branch. The claims resolved by the settlement agreement are allegations only and there has been no determination of liability.

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