



# Oregon

Tina Kotek, Governor



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November 6, 2025

Devon Brown, EPA Award Official  
U.S. Environmental Protection Agency  
Office of the Greenhouse Gas Reduction Fund  
Office of the Administrator  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Re: Objection to Closeout of EPA Assistance Agreement 5H-84092901

Dear Mr. Brown:

On September 5, 2025, the Oregon Department of Energy submitted to the U.S. Environmental Protection Agency (EPA) a Dispute of Termination of EPA Assistance Agreement 5H-84092901 pursuant to 2 C.F.R. § 1500.15. Despite that timely dispute, on October 1, 2025, the Oregon Department of Energy received email correspondence from [SFA@epa.gov](mailto:SFA@epa.gov) containing "Solar for All Grant Closeout Instructions" and demanding that the Oregon Department of Energy complete closeout within 120 calendar days of the "the date of termination that is listed in your award amendment." The Oregon Department of Energy has now received EPA's October 23, 2025, letter purporting to declare moot the Oregon Department of Energy's "dispute regarding the termination of Assistance Agreement 5H-84092901." The sole basis for EPA's mootness determination is that "there is a current lawsuit in place regarding the validity of the termination of your assistance agreement."

We write to obtain clarification regarding EPA's mootness determination and to formally object to EPA's demand that Oregon Department of Energy close out Assistance Agreement 5H-84092901.

As an initial matter, clarification is needed because EPA's October 23, 2025, letter references "your dispute was submitted on August 28, 2025." But the Oregon Department of Energy did not submit its Part 1500 dispute on August 28, 2025. Rather, August 28, 2025, is the date that the Oregon Department of Energy submitted its 21-day Notice of Disagreement in accordance with EPA's August 8, 2025, Assistance Amendment. On September 5, 2025, the Oregon Department of Energy submitted a dispute pursuant to 2 CFR 1500.15, notifying EPA that we dispute EPA's attempt to terminate our Solar for All award. Thus, it is unclear which of Oregon Department of Energy's disputes "EPA has rendered" moot. The Oregon Department of Energy disagrees with EPA's apparent position that a timely administrative dispute pursuant to 2 C.F.R. § 1500.15 cannot proceed if related litigation is pending. EPA cites no authority for this proposition, and we are aware of no authority that would prohibit EPA from correcting its unlawful termination decision through a streamlined administrative dispute, rather than through cumbersome litigation. At a minimum, EPA should stay the administrative dispute until the conclusion of Oregon Department of Energy's lawsuit challenging EPA's termination of the Solar for All program in the United States District Court for the Western District of Washington, No. 2:25-cv-02015 (the District Court litigation).

More importantly, and regardless of any determination regarding the status of Oregon Department of Energy's administrative challenges to the termination, closeout is improper at this time.

As you are aware, in addition to the District Court litigation, the Oregon Department of Energy has sued for damages in the United States Court of Federal Claims over EPA's termination of this grant, No. 1:25-cv-01738-LAS. It would be inappropriate and prejudicial to require the Oregon Department of Energy to close out while litigation is pending that directly concerns EPA's termination of this grant. *Cf.* 48 C.F.R. § 4.804-1(c) (for procurement contracts, "[a] contract file shall not be closed if— (1) The contract is in litigation or under appeal").

Moreover, under 2 C.F.R. § 200.344(a), EPA may close out a grant only after it "determines that all administrative actions and required work of the Federal award have been completed." The Oregon Department of Energy has complied—and continues to comply—with the terms and conditions of the Solar for All program. EPA unilaterally terminated these grants and illegally de-obligated \$79,835,455.49 from the Oregon Department of Energy's Automated Standard Application for Payments (ASAP) account, without determining that the work of the grants had been accomplished, and without even waiting for 30-day deadline to file a Part 1500 dispute to expire. As a result of EPA's unlawful actions, the Oregon Department of Energy has not been able to complete the work required under Assistance Agreement 5H-84092901. Accordingly, EPA necessarily cannot "determine[] that all administrative actions and required work of the Federal award have been completed" as would be required to close out.

The Oregon Department of Energy does not agree to close out Assistance Agreement 5H-84092901 while litigation relating to this grant is pending. We seek an extension for our close-out date until all litigation has been resolved, including any appeals. Additionally, we do not accept any unilateral actions on the part of the EPA to commence close-out procedures without our express and informed consent, as well as our provision of the information required under 2 C.F.R. § 200.344(b)–(c).

Please confirm receipt of this correspondence no later than 5:00pm on November 6, 2025.

Sincerely,

A handwritten signature in cursive script that reads "Janine Benner".

Janine Benner, Director  
Oregon Department of Energy

CC: Michael Molina