

# DEPARTMENT OF ENERGY OVERSIGHT: STATUS OF LOAN PROGRAMS

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## HEARING BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED THIRTEENTH CONGRESS SECOND SESSION

MAY 30, 2014

**Serial No. 113-150**



Printed for the use of the Committee on Energy and Commerce  
*energycommerce.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

91-446

WASHINGTON : 2015

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For sale by the Superintendent of Documents, U.S. Government Publishing Office  
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## **DEPARTMENT OF ENERGY OVERSIGHT: STATUS OF LOAN PROGRAMS**

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**FRIDAY, MAY 30, 2014**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 9:20 a.m., in room 2123, Rayburn House Office Building, Hon. Tim Murphy (chairman of the subcommittee) presiding.

Present: Representatives Murphy, Burgess, Blackburn, Gingrey, Scalise, Harper, Griffith, Johnson, Long, DeGette, Braley, Schakowsky, Tonko, Green, and Waxman (ex officio).

Staff Present: Charlotte Baker, Deputy Communications Director; Mike Bloomquist, General Counsel; Sean Bonyun, Communications Director; Matt Bravo, Professional Staff Member; Leighton Brown, Press Assistant; Karen Christian, Chief Counsel, Oversight; Carrie-Lee Early, Detailee, Oversight; Brad Grantz, Policy Coordinator, O&I; Brittany Havens, Legislative Clerk; Sam Spector, Counsel, Oversight; Peter Spencer, Professional Staff Member, Oversight; Tom Wilbur, Digital Media Advisor; Brian Cohen, Minority Staff Director, Oversight & Investigations, Senior Policy Advisor; Kiren Gopal, Minority Counsel; Hannah Green, Minority Staff Assistant; Elizabeth Letter, Minority Press Secretary; and Stephen Salsbury, Minority Investigator.

### **OPENING STATEMENT OF HON. TIM MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA**

Mr. MURPHY. Good morning, everyone. This is a hearing of the Subcommittee on Oversight and Investigations entitled "Department of Energy Oversight: Status of Loan Programs."

Today's hearing will examine the status of the Department of Energy's loan programs and will focus in particular on the Department's efforts to manage a nearly \$30 billion portfolio of 30 loans and loan guarantees, while the Department at the same time launches new initiatives to expand that portfolio with additional loans. These new initiatives will tap into existing loan authority that at present amounts to another 40 billion. Add this to the fact that the terms of these loans and guarantees are as long as 20 or 30 years, and it is clear that DOE will be accountable for managing these programs and protecting taxpayer interests for a long time.

So has DOE implemented the structure, policies, and practices to meet its responsibilities? Is it doing so rapidly and effectively?

Should it do more? And how will the agency sustain effective oversight over this program for the long term?

It's been evident since this committee first commenced oversight of these programs more than 3 years ago that protecting taxpayer interests is no easy task for DOE. Created under Title XVII of the Energy Policy Act back in 2005, the Department's advanced energy technology loans authorized by Congress did not really take off until the stimulus funding of 2009. The stimulus created a category of loan guarantees that were fully subsidized by the taxpayer. In the ensuing years of stimulus spending, the DOE's Loan Programs Office focused on soliciting, reviewing, and closing a flood of applications under what was known as a Section 1705 program. The agency's focus with closing loan applications under the stimulus came at the expense of establishing a strong back-end program necessary to manage the risks of the loan portfolio.

The result exhibited most prominently by DOE's handling of the Solyndra loan guarantee were unnecessary taxpayer losses in the hundreds of millions of dollars. Today half the funds and a majority of projects in DOE's loan portfolio are comprised of these stimulus-funded loan guarantees.

In some respects DOE is in a different place now than it was 3 years ago. The agency has issued only two loan guarantees since 2011. It has put more attention to developing portfolio management capabilities and implementing other reform measures.

So today we will take a measure of what DOE has accomplished and what more it should do to protect taxpayer interests. This oversight is particularly important because as the agency transitions focus to portfolio management, it has, in the recent months, launched new initiatives to generate more loans and loan guarantees. In February, the agency announced a new solicitation to tap into \$8 billion in loan authority for advanced fossil energy projects. It has proposed a second solicitation to tap into \$4 billion in loan authority for renewable energy projects, and it has reminded the automotive manufacturing industry that some \$16 billion in authority is available for loans for advanced vehicle technologies and manufacturing.

The status of these new initiatives remain an open question, but it is important to understand whether the agency can manage these new solicitations while ensuring appropriate stewardship of its existing portfolio; and if these new initiatives expand the loan portfolio, can DOE manage it.

This past month both the Government Accountability Office and the DOE inspector general issued reports that evaluated certain elements of DOE's management and monitoring of loans. While both reports found DOE had made progress strengthening oversight, both also identified continuing concerns. For example, GAO found that DOE has not fully developed or consistently adhered to loan-monitoring policies, and this inconsistent adherence means that we cannot be sure the agency is completing activities important to protecting taxpayer interests.

The inspector general showed the impact of poor loan monitoring in its examination of Abound Solar Manufacturing, which defaulted on its DOE loan terms in September 2011 and declared bankruptcy in July, 2012. The lessons from the Abound case, the IG noted, un-

derscored the need for the Department to accelerate loan oversight improvements in light of the amount of loans in the portfolio. The IG noted that progress has been made, but more needs to be done.

Frank Rusco of the GAO and Deputy Inspector General Rickey Hass will discuss these perspectives today, and most important, of course, are DOE's answers to our questions. We have the benefit of hearing directly from the head of the loan program, Mr. Peter Davidson. So, welcome, Mr. Davidson. I look forward to perspectives on the recommendations made by GAO and the IG, and your view of the status of the agency's operations and loan program goals and challenges. And with that, I now yield 5 minutes to Ms. Schakowsky for an opening statement.

[The prepared statement of Mr. Murphy follows:]

#### PREPARED STATEMENT OF HON. TIM MURPHY

Today's hearing will examine the status of the Department of Energy's loan programs. It will focus in particular on the Department's efforts to manage nearly a \$30 billion portfolio of 30 loans and loan guarantees, while the Department at the same time launches new initiatives to expand that portfolio with additional loans. These new initiatives will tap into existing loan authority that, at present, amounts to another \$40 billion.

Add to this the fact that the terms of these loans and guarantees are as long as 20 or 30 years, and it is clear that DOE will be accountable for managing these programs, and protecting taxpayer interests, for a long time.

Has DOE implemented the structure, policies, and practices to meet its responsibilities? Is it doing so rapidly and effectively? Should it do more? And how will the agency sustain effective oversight over this program for the long term?

It has been evident since this Committee first commenced oversight of these loan programs more than 3 years ago that protecting taxpayer interests is no easy task for DOE. Created under Title 17 of the Energy Policy Act of 2005, the Department's advanced energy technology loans authorized by Congress did not really take off until the stimulus funding of 2009. The stimulus created a category of loan guarantees that were fully subsidized by the taxpayer.

In the ensuing go-go years of stimulus spending, DOE's Loan Programs Office focused on soliciting, reviewing, and closing a flood of applications under what was known as the section 1705 program. The agency's preoccupation with closing loan applications under the stimulus came at the expense of establishing a strong back-end program necessary to manage the risks of the loan portfolio.

The result, exhibited most prominently by DOE's handling of the Solyndra loan guarantee, were unnecessary taxpayer losses in the hundreds of millions of dollars. Today, half of the funds and a majority of projects in DOE's loan portfolio are comprised of these stimulus-funded loan guarantees.

In some respects, DOE is in a different place now than it was 3 years ago. The agency has issued only two loan guarantees since late 2011. It has put more attention to developing portfolio management capabilities and implementing other reform measures.

So today, we will take a measure of what DOE has accomplished, and what more it should do to protect taxpayer interests. This oversight is particularly important because, as the agency transitions focus to portfolio management, it has in recent months launched new initiatives to generate more loans and loan guarantees.

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The Inspector General showed the impact of poor loan monitoring in its examination of Abound Solar Manufacturing, which defaulted on its DOE loan terms in September 2011 and declared bankruptcy in July 2012. The lessons from the Abound case, the IG noted, underscored the need for the Department to accelerate loan oversight improvements in light of the amount of loans in the portfolio. The IG noted that progress has been made, but more needs to be done.

Frank Rusco of the GAO and Deputy Inspector General Rickey Hass will discuss these perspectives today.

Most important, of course, are DOE's answers to our questions. We have the benefit of hearing directly from the head of the Loan Program Office, Mr. Peter Davidson.

Welcome Mr. Davidson. I look forward to your perspective on the recommendations made by GAO and the IG and your view of the status of the agency's operations, and loan program goals and challenges.

**OPENING STATEMENT OF HON. JANICE D. SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I am sitting in this morning for the ranking member Diana DeGette and have the privilege of 5 minutes to give you my take on not only the loan program, but its goals.

Thank you, Mr. Chairman, for holding this important hearing on the status of the Department of Energy's loan program, and I look forward to hearing from our witnesses on this very important issue.

We are at a critical moment in history. 2013 was the 6th warmest year on record; 13 of the 14 warmest years have occurred since 2000. Earlier this month the National Climate Assessment showed that, without major intervention, oceans will rise as much as 4 feet, water shortages will increase rapidly, and the hottest days could be more than 10 degrees hotter by the end of the century. But we are privileged here to have an opportunity to fight and win the battle against climate change, to leave a legacy to which our children and grandchildren can be proud, and I believe this is an opportunity that we must take.

Our approach should be multifaceted. It must include strong rules to reduce harmful emissions as well as a commitment to promising technologies that will help us achieve that goal. Investing in clean energy technologies is not only good for the environment, but it's also in our economic self-interest.

The clean and renewable energy sectors are among the fastest-growing areas of the global economy and will generate almost \$2 trillion in global investment from 2012 to 2018, according to PEW. There are three times as many jobs created per dollar spent on clean energy versus fossil and nuclear fuels. We should be the undisputed leader in clean energy technologies and the jobs they support, and, with the right Federal support, we will be.

Today we are going to hear from witnesses about the status of loan programs at the Department of Energy. The Government Accountability Office and the Department's inspector general have recently issued reports assessing DOE's loan management and oversight practices. I look forward to hearing about the progress DOE



has made in strengthening its management policies as well as areas for improvement.

The Loan Programs Office has been successful in financing groundbreaking solar, advanced vehicle, and wind projects. These and other projects put the credit and confidence of our country behind our greatest innovators, allowing them to succeed where they otherwise might fail. That backing has paid off in a number of ways. Private-sector clean energy projects supported by the loan guarantee program have an 87 percent success rate, far outpacing the performance of typical venture capital firms. Their failure rate is only 2 percent, better than that of loan portfolios at typical banks. Add to this the fact that many of the recipients of DOE loans have trouble finding financing in the private sector, and the program success is all the more impressive.

The programs have also helped ensure that our auto sector can make the investments needed to make top-of-the-line, fuel-efficient cars. Ford used a DOE Advanced Technology Vehicles Manufacturing loan to upgrade 13 factories across 6 States, including my home State of Illinois. That investment increased the fuel efficiency of Ford cars and created or maintained 33,000 jobs at a time our auto industry was in trouble.

Tesla Motors, another success story, paid off its entire loan last year, 9 years before full payment was due. I wish I could afford a Tesla. Each of the 18 large-scale renewable energy projects backed by DOE's 1705 program have secured power purchase agreements that will ensure the loans are paid back on time and in full.

And finally, the programs have encouraged significant private investment in clean energy technologies. The Solar Energy Industries Association estimates that DOE loan programs have sparked \$25 billion in private investment in solar alone. We need to continue to support nascent technologies until they can attract significant private investment.

Let me just say that in an environment where so many of my colleagues are denying the existence or the importance of climate change and global warming, nonetheless there ought to be an embrace of programs that create—that stimulate our ability to be leaders around the world in energy technology and clean energy technology, and I look forward to learning from our witnesses how DOE's loan program can be improved and strengthened moving forward. And I yield back.

Mr. MURPHY. Thank you for yielding back.

I now recognize Mr. Burgess for a 5-minute opening statement.

**OPENING STATEMENT OF HON. MICHAEL C. BURGESS, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. BURGESS. Thank you, Mr. Chairman, and thank you for holding this hearing because it is an important follow-up to work that this subcommittee and subcommittee staff has been performing over the past 3 ½ years.

Certainly the exposition of some of the poor handling of the 1703 loan guarantee program has been one of the principal efforts of this committee, because, as we now know, the loss of hundreds of millions of taxpayer dollars occurred.

The Department of Energy even went so far as to subordinate the United States' interest in being paid back its money and allowed private investors to be first in line to receive funding, a move that many people believe was done in direct conflict with the very plain language of the law that authorized the loan guarantee program in the first place.

Following this committee's work, Herb Allison, the former Assistant Secretary of the Treasury, looked into the mismanagement of this program by the Department of Energy and released a report, and released a set of recommendations into how the program could be more efficiently operated and still stay within the confines of the authorizing statute.

In the wake of the disastrous results of the first round of loan guarantees, which, you'll recall, ended in bankruptcy announcements of companies like Solyndra, Abound Solar, Beacon Power, the Department of Energy suspended making any further loan guarantee approvals. In June of 2013, Secretary Chu told the San Francisco Chronicle, we're going to have more bankruptcies. Sometimes it will be like Solyndra where you get 3 cents on the dollars; others, it will be 80 cents or something like that.

You know, the dismissive tone of the former Secretary making a statement about losing such a profound amount of American taxpayer money was really upsetting to a lot of us on the committee. Following a not-brief-enough 3-year hiatus, it's really been since September of 2011 since there have been any more loan guarantees, I would question whether any more should be made, but the Department of Energy announced this year that it would actually breathe the new life into the program. Current solicitations include loan guarantees for efficiency automobiles and solar energy.

The subcommittee today must look into how the Department of Energy intends to operate this program going forward. Does Secretary Moniz agree with his predecessor's view that more bankruptcies in this program are inevitable? Following the Allison report, what changes have been implemented within the agency to ensure that such failures are minimized? What is the Department's vision for this program going forward?

The loan guarantee program was really accelerated right after the inauguration of President Obama in 2009, was part of a massive stimulus bill, and the President said it was essential for creating jobs and helping to steer the country out of an economic recession. Six years later is this still the goal of the program? At that time, in early 2009, credit markets were essentially frozen to American companies. Does this continue to be the case?

If those things have changed, what is the government's role in any loan guarantee program? If the investment is so inherently risky that it cannot attract private capital, why should the American taxpayer be the one that's put at risk?

The loan guarantee programs that the Department of Energy will be approving apply to loans issued for 20- and 30-year timeframes, two or three decades. Given that, when the fact that the Department will need to monitor these loans for decades to come, what safeguards are in place within the Department to ensure continuity of oversight over the two- to three-decade lifetime of the loan?

Moreover, during our last set of hearings over the failures of the Department of Energy to properly oversee the program, it became clear that the Department of Energy actively excluded the Treasury Department from any meaningful input into the decision-making of which company should be receiving loan guarantees. What has happened to the cooperation between the two Departments? Does that lack of cooperation continue to exist, or will the Department of Energy be soliciting more economic expertise from the Department of Treasury?

These are some of the many questions that are going to come up today, and I hope they are answered in today's hearing. I look forward to hearing from our witnesses and welcome them in their time in the committee.

I yield back to the chair.

Mr. MURPHY. The gentleman yields back.

I now recognize Mr. Waxman for a 5-minute opening statement.

**OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. WAXMAN. Thank you, Mr. Chairman. Thank you for holding this hearing. We're here today to discuss DOE's loan programs. We should focus on the success of the program and the need for clean energy financing as the threat of climate change becomes even more dire.

In 2011 and 2012, and maybe in 2014, this committee was almost obsessed with the Solyndra loan that went bad. We reviewed over 300,000 pages of documents, issued multiple subpoenas, conducted over a dozen interviews, and had 4 hearings. We found no evidence of the wrongdoing to support the wild claims of House Republicans, but we ignored the big picture, that the overall loan portfolio was strong, and that the loan program was helping to enable new breakthrough technologies to hit the market and employ tens of thousands of Americans.

Tesla Motors, the Caithness Shepherds Flat wind farm, the Agua Caliente Solar project, these are the exciting success stories of the Loan Programs Office, and they are far more representative of the program as a whole than the handful of programs that have not worked out.

Ensuring that America generates a much larger share of its energy from clean sources should be a top priority for our Nation's energy policy. Doing so is critical to allowing America to compete for leadership in the global clean energy market, to helping reduce America's energy cost by improving efficiency, and to combating climate change.

For the past several years, the Loan Programs Office has helped meet these goals. Earlier this year the Intergovernmental Panel on Climate Change, the world's preeminent authority on climate science, issued a stark warning on the consequences of failing to take action to address manmade climate change. The report found that climate change is already happening and will get much worse if we do not take action immediately.

In order for the planet to avoid the worst consequences of climate change, the United States has to be a leader in reducing carbon

pollution, and yet Republicans in Congress continue to feed the myth that there is a scientific debate about whether climate change is happening, despite glaciers melting, despite more powerful and prolonged hurricane and wildfire seasons. The wild fire season in California doesn't even end anymore. My Republican colleagues continue to bury their head in the sand.

This committee should be finding solutions to address climate change, but House Republicans offer no solutions. They reject every policy that would reduce our carbon pollution. They say no to a price on carbon. OK. But then they say no to cap-and-trade, and then they say no to EPA rules. They even reject financial support for climate science in DOE's loan program, which was originally established with bipartisan support.

Denying the science and rejecting all potential solutions is not a plan. So as we discuss the Loan Programs Office today, let's avoid the attempts to make political hay out of Solyndra. Instead, we should learn what loan program leaders have learned from past problems and what they are doing to ensure the program's success as it begins to accelerate the pace of new loans.

These loan programs can help us develop an energy strategy for the future that creates jobs, saves money, and positions us as a leader in the effort to mitigate the worst impacts of climate change. I thank our witnesses for being here with us today and to share their expertise on how we can make sure that the loan program achieves this vision.

Thank you, Mr. Chairman, and I yield back my time.

Mr. MURPHY. The gentleman yields back.

We will now proceed with our witnesses to speak. I wanted to add and tell Members, because we are limited on time, we'll have a quick gavel at 5 minutes, so please go under your time, so we will cut you off there so that all of us can ask questions.

So, Mr. Peter Davidson is the Executive Director of the Loan Programs Office at the United States Department of Energy. In this role he oversees the program, more than 30 billion portfolio of clean energy and advanced vehicle loans and loan guarantees, making it the largest project finance organization in the U.S. Government.

Mr. Rickey Hass is the Deputy Inspector General of Audits and Inspections at the United States Department of Energy. In this role he directs a Federal workforce of professional auditors and inspectors, serving at 13 major Department of Energy sites across the country.

And Mr. Frank Rusco is the Director of Natural Resources and Environment of the United States Government Accountability Office. In this role he leads audits and reviews on a broad spectrum of energy, science, and DOE programmatic issues for Congress and the committee.

I will now swear in the witnesses.

Are you all aware that this committee is holding an investigative hearing and, when doing so, has had the practice of taking testimony under oath? Do you have any objections to taking testimony under oath?

All of them say no.

The chair will then advise you that under the rules of the House and the rules of the committee, you are entitled to be advised by

counsel. Do any of you desire to be advised by counsel during your testimony today?

All the witnesses say no.

So, in that case, if you would please rise, raise your right hand, I'll swear you in.

[Witnesses sworn.]

Mr. MURPHY. Thank you. All of the witnesses have answered in the affirmative. You are now under oath and subject to the penalties set forth in Title 18, section 1001 of the United States Code. You may now each give a 5-minute summary of your written statement. Mr. Davidson, we will begin with you.

**STATEMENT OF PETER W. DAVIDSON, EXECUTIVE DIRECTOR OF THE LOAN PROGRAMS OFFICE, DEPARTMENT OF ENERGY; RICKEY HASS, DEPUTY INSPECTOR GENERAL FOR AUDITS AND INSPECTIONS, DEPARTMENT OF ENERGY; AND FRANK RUSCO, DIRECTOR, ENERGY AND SCIENCE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

**STATEMENT OF PETER W. DAVIDSON**

Mr. DAVIDSON. Chairman Upton and Chairman Murphy, Ranking Members Waxman and DeGette, members of the subcommittee, thank you for the opportunity to appear before you today. My name is Peter Davidson. I'm the Executive Director of the Department of Energy's Loan Program Office, or LPO, a role I assumed almost one year ago.

LPO issues loans and loan guarantees to accelerate the commercial deployment of clean energy projects and advanced vehicle manufacturing in the United States. The program was designed to fill a critical role in the marketplace, because the initial commercial deployment of innovative energy technology is often limited by a project developer's ability to secure sufficient full-term debt financing to build the project.

Every transaction supported by the loan program is a public-private undertaking. While the Department issues loans and loan guarantees to provide the necessary debt financing for these projects, the project sponsor must provide sufficient project-level equity investments of at least 20 percent of the total cost of every project, and usually represents more than 30 percent. DOE will not issue a loan or a loan guarantee until substantial private equity support is committed to the project. The LPO supports these innovative projects by administering two separate programs, the Title XVII and the Advanced Technology Vehicle Manufacturing, or ATVM, Program.

We currently manage a portfolio of more than \$30 billion of loan guarantees, loans, and conditional commitments, of 31 projects. As the committee knows, our projects include the first new nuclear power plant to be licensed and constructed in the United States in more than 30 years, some of the largest utility-scale solar facilities in the world, dozens of retooled auto manufacturing plants producing some of America's best-selling vehicles, the world's largest solar thermal energy storage systems, and a variety of other groundbreaking projects. Overall, these loans and loan guarantees have resulted in more than \$50 billion in total project investment.

Under the Title XVII program, the LPO currently has 17 electricity generation projects in operation that produce enough clean energy to power more than 550,000 homes annually, and this number is increasing as new projects come online.

The auto program has supported the production of over 4 million vehicles and approximately 35,000 direct jobs across 8 States: Michigan, California, Illinois, Missouri, Ohio, Kentucky, New York, and Tennessee.

So even in the context of the program's statutory mandate to take on technology risk, losses to date are approximately 2 percent of the entire portfolio; 98 percent of the portfolio is operating and money good. We believe our performance is strong and compares favorably to the private sector.

Now, the Department of Energy takes its responsibility to the American taxpayer very seriously. As a result, the LPO underwrites and structures its loan and loan guarantees to protect the interests of the taxpayer and maximize prospects for full repayment. Before making a loan or a loan guarantee, we conduct extensive due diligence on the application with rigorous financial, technical, legal, and market analysis by our professional staff, which includes qualified engineers, financial experts, and outside advisors. And as noted in previous GAO reports, some private lenders have observed that the LPO's due diligence process is as rigorous, if not more rigorous, than the reviews performed in the private sector.

Despite these efforts we have experienced some losses and thus constantly seek to improve every aspect of our operations. We have benefited greatly from recommendations for improvement, which have come from Congress, from the GAO, from the DOE's inspector general, and independent consultants such as former Treasury Department official Herb Allison. DOE has adopted many of these improvements, including streamlining the application process, adding transparency to the approval process, filling key positions with experienced professionals, clarifying authorities, strengthening internal oversight of the program, developing a state-of-the-art workflow management system, establishing a robust early warning system, and improving reporting to the public. We continuously look for ways to improve our underwriting and asset-monitoring activities, to incorporate lessons learned, and ensure best practices to protect taxpayer interests.

In conclusion, securing economic leadership in the future requires the support of clean energy innovation and deployment today. The LPO provides one of the most important tools to achieve those goals, and, as our global competitors have learned, that is debt financing on reasonable terms, wisely targeted, and responsibly deployed.

The achievements of the LPO, I believe, to date are solid, but they are not enough, and we need to do more to compete on the global stage, starting with our recently issued advanced fossil energy project solicitation, and continuing with other remaining authority, we aim to do just that.

Mr. Chairman, I thank the members of the subcommittee, and I look forward to answering your questions.

Mr. MURPHY. Thank you.

[The prepared statement of Mr. Davidson follows:]

**Testimony of Peter W. Davidson  
Executive Director, Loan Programs Office  
U.S. Department of Energy  
Before the House Energy and Commerce Committee  
Subcommittee on Oversight and Investigations  
May 30, 2014**

**Introduction**

Chairman Upton and Chairman Murphy, Ranking Members Waxman and DeGette, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Department of Energy's (DOE) Loan Programs Office (LPO).

**The Role of the Loan Programs Office**

The LPO issues loans and loan guarantees to accelerate the commercial deployment of clean energy projects and advanced vehicle manufacturing in the U.S. The program fills a critical role in the marketplace because the initial commercial deployment of new energy technology is often limited by a project developer's ability to secure sufficient full term debt financing to build the project. That is because commercial banks and bondholders are often unwilling to finance the first few commercial-scale projects that use a new technology since there is not yet a history of credit performance or operation. The LPO is uniquely positioned to address this market need by bearing some of the risk that traditional debt providers are either unwilling or unable to assume.

Every transaction supported by the LPO is a public-private undertaking. While the Department issues loans and loan guarantees to provide the necessary debt financing for these projects, the project sponsor must provide significant project-level equity investments. Equity invested from private sources must represent at least 20% of the total cost of every project, and usually represents more. DOE will not issue a loan or loan guarantee until substantial private equity support is committed.

The LPO supports these innovative projects by administering two separate programs: the Title XVII loan guarantee program and the Advanced Technology Vehicles Manufacturing (ATVM) Loan Program.

The Title XVII loan guarantee program was authorized by the Energy Policy Act of 2005 and signed into law by President George W. Bush. It provides the Department authority to issue loan guarantees to support the initial commercial deployment of clean energy projects that utilize innovative technology and reduce, avoid, or sequester greenhouse gases in the United States. The program covers a number of eligible technology areas including advanced fossil energy, nuclear energy, renewable energy, and energy efficiency.

The Advanced Technology Vehicles Manufacturing Loan Program (ATVM) was authorized under Section 136 of the Energy Independence and Security Act of 2007. It provides the Department with authority to issue direct loans to auto manufacturers and component suppliers to manufacture advanced, fuel-efficient vehicles and components in the U.S.

### The Loan Programs Office Portfolio

The LPO currently manages a portfolio comprising more than \$30 billion of loan guarantees, loans, and conditional commitments covering 31 projects including the first new nuclear power plant to be licensed and constructed in the United States in more than thirty years, some of the largest utility-scale solar facilities in the world, dozens of retooled auto manufacturing plants producing some of America's best-selling vehicles, the world's largest solar thermal energy storage system, and many other ground-breaking projects. Overall, these loans and loan guarantees have resulted in more than \$50 billion in total project investment.

Under the Title XVII program, the LPO currently has seventeen electricity generation projects in operation that produce enough clean electricity to power more than 550,000 homes annually – or roughly a city the size of Phoenix, AZ. This number will continue to rise as more of our projects come online.

The ATVM program has supported the production of over 4 million cars and approximately 35,000 direct jobs across eight states, including California, Illinois, Michigan, Missouri, Ohio, Kentucky, New York and Tennessee.

Even in the context of the program's statutory mandate to take on technology risk, losses to date represent only approximately 2 percent of the entire portfolio and we believe our performance is strong and compares favorably to the private sector.

Beyond the strong performance of the portfolio, I wanted to take this opportunity to highlight three specific examples that demonstrate LPO's commitment to American competitiveness and achieving an "all-of-the-above" energy strategy.

- **Supporting Construction of America's First New Nuclear Reactor in 30 Years:** In February, the Department issued \$6.5 billion in loan guarantees to Georgia Power Company and Oglethorpe Power Corporation to support construction of two new 1,100 megawatt (MW) Westinghouse AP1000® nuclear reactors, a first-mover for a new generation of advanced nuclear reactors, at the Alvin W. Vogtle Electric Generating Plant in Waynesboro, GA. This project represents the first new nuclear facility in the U.S. to begin construction and receive a Nuclear Regulatory Commission license in nearly three decades.

By supporting the Vogtle project, these loan guarantees are also facilitating the broader deployment of new advanced nuclear reactors in the U.S.

- **Launching Utility-Scale Solar in the U.S.:** In 2009, there was not a single photovoltaic solar facility larger than 100 MW in the U.S. A number of project developers with long-term power purchase agreements (PPAs) were interested in building large, utility-scale projects, but these developers faced challenges securing the necessary debt financing due to the scale and innovative nature of the projects.



In response, the LPO guaranteed \$4.6 billion in loans to support the first five utility-scale projects representing more than 1,500 MW of capacity. On the final loan guarantee, the LPO worked with a number of commercial lenders in order to enable them to build experience with these projects.

Following these five projects, ten additional PV projects larger than 100 MW were financed solely by commercial lenders. Today, these solar projects are more readily financed by private lenders – many of whom began their participation in the solar sector working with the LPO through its Financial Institution Partnerships Program (FIPP). These lending partners include leading financial institutions such as John Hancock, Bank of America, Citigroup, and others.

- **Supporting the American Auto Industry Resurgence:** Ford Motor Company is helping to position the U.S. auto industry as a leader in fuel-efficient vehicles worldwide. Through the ATVM program, Ford retooled and modernized factories in the United States, which created and preserved manufacturing jobs for more than 33,000 Ford employees.

The factory improvements from this project enabled Ford to continue improving fuel efficiency in more than a dozen popular vehicles, including the Escape, F-150, Focus, Fusion, and C-Max. The innovations include the family of Ford EcoBoost engines, which are available in almost all models, and introductions of new hybrid, plug-in hybrid, and all-electric plug-in vehicles. Earlier this month, Ford announced that it had sold its 500,000<sup>th</sup> Ford F-150 with a V6 EcoBoost engine.

In addition to supporting American automakers like Ford, the ATVM program helped launch Tesla Motors, America's first all-electric automaker. Tesla's \$465 million loan enabled it to reopen a shuttered auto manufacturing plant in Fremont, California and to produce battery packs, electric motors, and other powertrain components. Tesla has created more than 3,000 full time jobs in California – far more than the company initially estimated – and is building out a supply chain that supports numerous additional jobs and technologies, and is bringing advanced manufacturing technology back to America. In May 2013, Tesla repaid the entire remaining balance on its loan nine years earlier than originally required.

Moving forward, the program is committed to continuing this success and utilizing its remaining loan authority. In December, the Department issued the Advanced Fossil Energy Projects loan guarantee solicitation, which makes up to \$8 billion available to support innovative, advanced fossil energy projects in the U.S. In April, Secretary Moniz announced a number of improvements to the ATVM program in order to help support domestic advanced vehicle and component manufacturing. Most recently, the Department issued a draft Renewable Energy and Efficient Energy Projects Loan Guarantee Solicitation in April that is expected to make as much as \$4 billion in loan guarantees available once finalized.

#### **Risk and Portfolio Management**

The Department of Energy takes its responsibility to the American taxpayer very seriously. As a result, the LPO underwrites and structures its loans and loan guarantees to protect the interests of taxpayers and maximize prospects for full repayment. Before making a loan or loan guarantee, the LPO conducts extensive due diligence on the application, with rigorous financial, technical, legal and market analysis by DOE's professional staff, including qualified engineers, financial experts, and outside advisors.

The LPO also has one of the largest, most experienced project finance teams in the world that has the capabilities and tools to support a number of different project types, all while managing risk appropriately. Transactions are structured to identify and mitigate risk as effectively as possible before proceeding with a loan or loan guarantee. Once a project closes, the LPO continues to use powerful monitoring tools—including strong covenants and strict project milestones—to control the amount of additional risk it assumes. DOE will continue to be an active manager, continuously monitoring projects, their market environments, and other identified risks to seize all opportunities to minimize exposure to loss.

As noted in a previous GAO report, some private lenders have noted that the Department's due diligence is as rigorous – or more so – than that performed in the private sector. Due in large part to the Department's meticulous due diligence, its commitment to establishing protections within all agreements and robust project monitoring, the portfolio as a whole continues to perform very well with total losses to date of only about two percent.

Despite these efforts, and consistent with Congressional intent through the appropriation of credit subsidy, we have experienced some losses and thus constantly strive to improve every aspect of our operations. Given the nature of our work, we have benefited from several recommendations for improvement, including recommendations from Congress, the GAO, DOE's Inspector General, and independent consultants such as former U.S. Department of Treasury official Herb Allison.

DOE has adopted many of these improvements, including streamlining the application process; adding transparency to the approval process; filling key positions with experienced professionals; clarifying authorities, strengthening internal oversight of the programs; developing a state-of-the-art workflow management system; establishing a robust early warning system; and improving reporting to the public. Furthermore, LPO continuously looks for additional ways of improving its underwriting and asset monitoring activities to incorporate lessons learned and ensure best practices to protect taxpayer interests.

The Department took the recommendations of the 2012 Independent Consultant's report, otherwise known as the Allison Report, very seriously. As noted by the recent DOE IG report, the LPO is making substantial progress in addressing the recommendations in the Allison report. Specifically, the program has made the following changes in response to this report:

- The Department has strengthened its internal oversight of the Loan Programs by restructuring the former LPO Credit Division to encompass a Risk Management Division. The Department has hired a number of experienced professionals across the organization

including a new Executive Director, a Director of Risk Management, a permanent Chief Counsel, and several new senior Portfolio Managers.

- The LPO has improved, and will continue to improve, processes and systems for proactive monitoring, loan administration, compliance, and reporting, all of which contribute to the Department's comprehensive early warning system. The Program monitors market, regulatory, and counterparty risks that can affect credit performance and develops periodic reports for each transaction which provide an in depth analysis of the risks.
- Using its work management system, the Program generates periodic management reports for senior LPO and DOE leadership. The LPO is currently enhancing the utility of its content management system and is in the process of rolling out a management information reporting system (MIRS) that should allow for even more robust reporting on the portfolio and the Program's performance.

Recently, the Government Accountability Office (GAO) and the Department of Energy's Office of Inspector General (OIG) have issued reports related to LPO's loan monitoring and implementation of the various recommendations provided in previous reports.

The LPO generally agrees with the recommendations in the recent GAO report, *DOE Should Fully Develop Its Loan Monitoring Function and Evaluate its Effectiveness* (GAO-14-367), and is committed to constantly evaluating and improving its processes and procedures:

The LPO will continue its ongoing efforts to recruit and expand its staff for both the portfolio monitoring and risk management functions, complete its second generation management and reporting software, and memorialize, update and upgrade several operating procedures. The LPO will also continue to evaluate the effectiveness of the monitoring process as well as all other processes throughout the program.

We appreciate the GAO providing recommendations and work in identifying areas for improvements. We are committed to addressing those recommendations in an expeditious manner. We also noted in our response to the GAO a few areas where we disagreed with comments in the report. For instance, the GAO based its audit on a number of policy manuals dated from 2009 and 2011, which do not reflect the program's current practices. As the GAO report notes, the LPO is drafting new policies to reflect current practices. LPO's process documents are continually being reviewed and updated to reflect industry best practices, lessons learned, and new approaches tailored to the unique LPO portfolio. LPO's response to the GAO report also includes four other areas where we disagree with GAO's conclusions.

In addition, the LPO generally agrees with the conclusions of the recent report from the Department's OIG, *Audit Report on the Implementation of Recommendations from the January 2012 Independent Consultant's Review of DOE's Loan and Loan Guarantee Portfolio* (DOE/IG-0909). This report demonstrates that the Department has taken the Allison report seriously and has completed actions to address many of the Allison report's twelve recommendations and has made substantial progress in response to the remaining recommendations.

The OIG found that in cases where the Department had not implemented a specific recommendation from the Allison report, it had considered the recommendations and addressed the issue with a different approach. Further, the OIG noted that the Department had provided strong rationales for pursuing the alternative actions in these instances.

However, the OIG report went beyond the original Allison report and identified two additional recommendations to enhance management and oversight and to ensure transparency and accountability. We appreciate the additional recommendations by the OIG; they aid our efforts to improve of the LPO's processes. The LPO will continually monitor opportunities to improve its operation and achieve its mission, and is working to address the opportunities presented by the OIG.

### **Conclusion**

Securing economic leadership in the future requires the support of clean energy innovation and deployment today. Developing a robust "all-of-the-above" energy strategy that provides a domestic supply of energy while reducing greenhouse gas emissions is crucial to our long-term national interests and will help American companies and workers attain the tools needed to succeed in a competitive global market. The LPO provides one of the most important tools to achieve these goals—as our global competitors have learned—debt financing on reasonable terms, wisely targeted and responsibly deployed.

Other governments have reached the same conclusion. China, Germany, Canada, and Australia, for example, operate government-backed clean energy lending programs. The UK, the Netherlands, and India have announced their intent to do the same. By facilitating credit, these programs allow projects to effectively deploy innovative energy technologies and establish a solid credit history—thereby making them more competitive and attractive to private lenders for subsequent projects.

The United States cannot cede the coming technological innovations and related economic development to competitors around the world. Not every company, nor every investment, will succeed, but the United States will be stronger and more competitive with continued support for a thriving energy industry here at home.

The achievements of the LPO to date are remarkable. But they are not enough and we need to do more to compete on the global stage. Starting with our recently issued Advanced Fossil Energy Projects Solicitation and continuing with our other remaining authority, we aim to do just that.

Mr. Chairman, I thank the members of the Committee and I look forward to answering your questions.

Mr. MURPHY. Mr. Hass, 5 minutes.

**STATEMENT OF RICKEY HASS**

Mr. HASS. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify on the work of the Office of Inspector General regarding the Department of Energy's loan—

Mr. MURPHY. Could you pull that microphone real close to your mouth, please?

Mr. HASS. Little better?

Mr. MURPHY. That's much better. Thank you.

Mr. HASS. Because of the significant taxpayer funds involved, the Office of Inspector General has, over the years, performed a series of reviews of the Loan Programs Office. These reviews have identified needed improvements in both the origination and monitoring of loans.

My testimony today will focus on our review of the Department's implementation and recommendations that resulted from an administration-requested review of the LPO by Mr. Herbert Allison in January of 2012. Prior to doing so, however, I will discuss our recent report on the failure of the \$400 million Abound loan guarantee to provide a benchmark for understanding the Department's progress and actions yet to be completed.

Although the Department had identified and taken steps to mitigate risk, and had reduced its financial exposure by suspending funding when Abound did not meet its project milestones, our audit identified several weaknesses in the administration of the loan. Specifically we found that the program had not notified the Department's credit review board of material change in the credit subsidy used to cover potential loan losses. It had not resolved conflicting opinions of technical advisors, adequately documented assumptions used in its financial modeling, and conducted ongoing formal financial and market analyses.

We concluded that the issues we identified occurred because the program had not established comprehensive policies, procedures, and guidance for awarding, and monitoring and administering loans. We also pointed out that the weaknesses in the financial market and monitoring of Abound occurred when the program had limited staff and was just establishing its portfolio management division.

The Department's experience with the Abound loan guarantee provides useful lessons learned for program improvements, which were generally incorporated in the independent consultant recommendations. The purpose of our most recent review was to determine whether the Department adequately addressed the independent consultant's twelve recommendations to enhance program oversight and management.

Our review found that the Department had completed actions to address four of the twelve recommendations, including filling a number of key positions and establishing and communicating management goals. While the Department did not fully concur with our findings, we consider efforts to address the remaining eight recommendations to be ongoing, because policies, procedures, and other plans and efforts were not yet complete and in place. Examples of remaining actions include strengthening internal oversight,

clarifying authorities, and incorporating lessons learned into policies and procedures.

We also identified other needed improvements. Specifically we noted that the Department had not finalized changes in policies and procedures necessary to address Mr. Allison's recommendations, and had not developed a formal adjudication process for resolving differences of professional opinion. Finally, we found that the program had created a potential conflict of interest by appointing the Director of Portfolio Management as a member of the program's risk committee.

While the Department's actions show promise and substantial progress had been made, we were unable make a determination at the time of our report as to whether the efforts will be ultimately fully successful, because, as previously noted, a number of actions are still ongoing.

Given the significant amount of funding available for loans and loan guarantees and the previously identified weaknesses, we'll continue to monitor the loan-related activities as part of our normal risk-assessment process. In our view, the loan guarantee program warrants special attention by Department officials, and as such has been one of our management challenge watch list items since 2011.

Mr. Chairman, this concludes my statement, and I will be pleased to answer any questions the subcommittee may have. Thank you.

Mr. MURPHY. I thank the gentleman.

[The prepared statement of Mr. Hass follows:]

Statement of Rickey R. Hass  
Deputy Inspector General for Audits  
and Inspections  
U.S. Department of Energy

Before the  
Subcommittee on Oversight and Investigations,  
Committee on Energy and Commerce  
U.S. House of Representatives

FOR RELEASE ON DELIVERY  
9:15 AM  
May 30, 2014

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to testify at your request on the work of the Office of Inspector General regarding the Department of Energy's (Department) Loan Programs Office (Program).

The Program was originally created to accelerate the domestic commercial deployment of innovative and advanced clean energy technologies at a scale sufficient to contribute to the achievement of national clean energy objectives. In fulfilling its mission, the Program guarantees loans to eligible clean energy projects and provides direct loans to eligible manufacturers of advanced technology vehicles and components. As of May 2014, the Program had approximately \$43 billion in remaining loan and loan guarantee authority and was monitoring about a \$30 billion loan portfolio.

Because of the significant taxpayer funds involved, the Office of Inspector General has, over the years, performed a series of reviews on various aspects of the Department's Loan Programs Office. These reviews have identified needed improvements in both the origination and monitoring of loans. In April 2014, the Office of Inspector General published a report on a loan guarantee to Abound Solar Manufacturing, LLC (Abound), an entity that declared bankruptcy after failing to satisfy the terms of its loan agreement with the Department.<sup>1</sup> Further, in May 2014, we reported on the Department's progress in implementing recommendations for improvement that resulted from an Administration requested review by an independent consultant.<sup>2</sup>

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<sup>1</sup> *Audit Report on the Department of Energy's Loan Guarantee to Abound Solar Manufacturing, LLC*, (DOE/IG-0907, April 2014)

<sup>2</sup> *Audit Report on Implementation of Recommendations from the January 2012 Independent Consultant's Review of the Department of Energy Loan and Loan Guarantee Portfolio* (DOE/IG-0909, May 2014)



My testimony today will focus on our findings regarding the Department's implementation of the independent consultant's recommendations. Prior to this, I will outline our findings regarding the Abound loan guarantee to provide a benchmark for understanding the Department's progress and actions yet to be completed to fully implement the consultant's recommendations.

#### **Office of Inspector General Oversight**

##### **Abound Solar**

The purpose of our April 2014 audit was to examine the circumstances surrounding the Program's approval and administration of a loan guarantee to Abound. The Program issued the loan guarantee to Abound for up to \$400 million in December 2010, to construct and commission thin-film photovoltaic solar panel manufacturing facilities. In September 2011, Abound failed to meet certain milestones; therefore, the Program suspended funding to the project. Subsequently, Abound filed for bankruptcy in July 2012.

Our audit revealed that Abound's failure to meet its project milestones and its subsequent bankruptcy occurred as a result of a combination of market conditions and technical issues that negatively impacted its operations. These issues included dramatic changes in the solar panel market that resulted in downward price pressures and performance shortfalls in Abound's solar panels, which negatively affected its sales and delayed its expansion plans. The Program had identified and evaluated these types of market and technical risks prior to the loan approval and issuance. The program concluded that, despite these risks, there remained a reasonable prospect of

repayment of the loan. Additionally, the Program established mitigation measures prior to issuing the loan to address these risks, such as instituting technical and financial performance metrics prior to allowing the recipient to drawdown loan funds. However, subsequent to loan closure, market conditions further deteriorated and technical issues continued, resulting in Abound's failure to meet requirements of the loan and its ultimate bankruptcy.

Although the Department had identified, considered and taken steps to mitigate the market and technical risks, and had reduced the financial exposure to the project by suspending funding when Abound did not meet its project milestones, our audit identified several weaknesses in the Department's administration of the Abound loan. Specifically, we found the Program had not:

- Consulted with the Department's Credit Review Board concerning a material change in the credit subsidy used to cover potential losses subsequent to the Board's recommendation to approve the loan. Specifically, the Program lowered its recovery rating estimate, the potential recovery in the event of default, from 38 percent to 8.3 percent prior to loan closing. This change increased the credit subsidy from \$71 million to \$96 million, an increase of \$25 million in taxpayer funds appropriated under the American Recovery and Reinvestment Act of 2009. In our opinion, the change in potential recovery should have been made known to board members so they could determine if such information would have altered their decision to recommend approval of the loan to the Secretary.

- Resolved conflicting opinions of its advisors regarding Abound's ability to overcome technical issues. While the Program's Independent Engineer believed that Abound's plans to address the technical issues were achievable and the project funding should continue, the Program's internal solar expert recommended that the Program not approve additional disbursements based on the number, severity, and frequency of Abound's product and quality control issues. Despite the technical shortfalls and the solar expert's concerns regarding Abound's quality control, the Program allowed the project to continue without reconciling the conflicting opinions of the Independent Engineer and the solar expert.
- Adequately documented the assumptions in the financial modeling used to support loan approval and monitoring. Program officials stated that assumptions used in the models fully considered deteriorating market conditions, overcapacity in the solar panel industry and Abound's technical performance issues. However, we were unable to verify the Program's assertion because the results of key/critical discussions were not formally documented and thus were not available for our examination.
- Conducted ongoing, formal financial and market analyses as part of its monitoring activities as required by the Program's policy manual. Specifically, we found no evidence that these types of analyses were regularly performed during Abound's disbursement period. Although Abound supplied financial data, we were unable to establish that the Program used such information to determine whether financial requirements of the loan were being satisfied.

We concluded that the issues we identified occurred because the Program had not established comprehensive policies, procedures and guidance for awarding, monitoring and administering loans. Specifically, we noted a lack of guidance in the areas of the Board's reconsideration of loans, the processes for resolving differences in professional opinions among the Program's technical experts, the nature and timing of financial and market analysis, and the management of distressed loans.

We also pointed out that weaknesses in the financial and market monitoring of Abound occurred during a period when the Program was just establishing its Portfolio Management Division, which limited the availability of qualified staff. In fact, the Division only had three employees overseeing loans — a newly hired Director and two support contractors who had been transferred from within the Program. Additionally, based on a review of qualifications and internal email correspondence, we confirmed that the contractor assigned as the Portfolio Manager for Abound lacked the skill-set needed to effectively monitor financial and technical performance.

The Department's experience with the Abound loan guarantee provides useful lessons learned for Program improvement that were generally encapsulated in the independent consultant's report, especially as they relate to clarifying authorities and accountabilities of managers, filling key positions with experienced professionals, and strengthening and restructuring oversight of the Program.

**Independent Consultant's Recommendations**

The purpose of our May 2014 report was to determine whether the Department adequately addressed findings and recommendations from the January 2012 independent consultant's report. The review, commissioned by the White House Chief of Staff in October 2011, provided an independent evaluation of the loan and loan guarantee portfolio and made recommendations for improvement. The requested review was focused on the present and future of the Program; therefore, it excluded an evaluation of loans to companies that had recently filed for bankruptcy protection, including Solyndra, Inc. The independent consultant's report identified a number of areas for improvement and included 12 overall recommendations comprised of specific actions for implementation aimed at enhancing the oversight and management of the Program.

We found that, overall, the Department appeared to have taken the consultant's recommendations seriously, and that related actions were generally responsive to the recommendations. Specifically, we concluded that the Department had completed actions to address 4 of the report's 12 recommendations and initiated actions in response to the remaining 8 recommendations. We found, however, that the Department had not always implemented actions as precisely as recommended by the independent consultant. Instead, it considered all specific recommended actions and had, based on supporting rationale, chosen alternative approaches.

**Status of Recommendations**

Our review found that the Department had completed actions to:

- Provide long-term funding through normal appropriations and the collection of loan fees;

- Fill a number of key positions in management with experienced professionals;
- Establish and effectively communicate clear management goals; and
- Engage in long-range strategic planning.

While the Department had initiated a number of actions, we consider its efforts to address the remaining eight recommendations to be ongoing because policies, procedures, and other plans and efforts were not yet complete and in place. Ongoing actions include:

- Clarifying authorities and accountabilities of managers;
- Proactively protecting the taxpayers' interest;
- Improving public reporting;
- Strengthening and restructuring internal oversight;
- Establishing an external oversight advisory board;
- Creating a comprehensive management information reporting system;
- Establishing a protocol for timely reporting of critical information; and
- Incorporating lessons learned into policies, procedures, reporting and decision making.

We noted that several of the areas for improvement recommended by the independent consultant, such as the need for a comprehensive records management system, a lessons-learned process and adequate staffing, were identified in previous reviews conducted by our Office. In particular, our March 2011 report found that the Program had not adopted a records management system or updated its policies and procedures to include improvements in its loan processing to provide for the

consistent use of lessons learned.<sup>3</sup> In March 2013, the Program certified that all actions regarding the adoption of a records management system had been completed; however, action items to address the update of its policies and procedures were still pending at the conclusion of our most recent review. Finally, the need to ensure sufficient staffing was also identified in our September 2007 report, which identified additional opportunities for improving the management and oversight of the Program.<sup>4</sup>

Although we noted that the Department had made progress in addressing the independent consultant's recommendations, we identified additional areas of needed improvement that were not specified by the consultant. Specifically, we noted that the Department:

- Had not finalized changes in policies and procedures necessary to address the report's recommendations. At the time of our review, almost 2 years after the consultant's report was issued, revisions to the Program's overall policy manual were not yet finalized. In addition, our review of the Program's draft policy found that some aspects of the loan management process, such as defining what actions are "material" and establishment of clear lines of authority remained unclear.
- Had not developed a formal adjudication process for resolving differences of professional opinion. As we noted in the case of Abound, a well-defined process for resolving professional differences of opinion is essential.

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<sup>3</sup> *Audit Report on the Department of Energy's Loan Guarantee Program for Clean Energy Technologies* (DOE/IG-0849, March 2011)

<sup>4</sup> *Special Report on Loan Guarantees for Innovative Energy Technologies* (DOE/IG-0777, September 2007)

- Had created a potential conflict-of-interest by appointing the Director of Portfolio Management as a member of the Program's Risk Committee. One of the committee's functions is to evaluate risks associated with individual loans monitored by the Portfolio Management Division and make recommendations for changes in risk evaluations as appropriate. We concluded that the Risk Committee, as structured at the time of our audit, had not initially allowed for a fully independent evaluation process to occur in that the Director of Portfolio Management was a voting member of the committee. After we discussed the apparent conflict with Program officials, they revised the charter for the Risk Committee and removed the Director of Portfolio Management as a committee member.

Finally, while the Department's actions show promise and substantial progress had been made in implementing recommended improvements, we were unable to make a determination as to whether these efforts will ultimately be fully effective, because, as previously noted, a number of actions, such as clarifying authorities, establishing an external advisory board, and incorporating lessons learned were still ongoing.

#### **Path Forward**

The Program issued a solicitation in December 2013, making up to \$8 billion in loan guarantee authority available to support innovative advanced fossil energy projects that avoid, reduce or sequester greenhouse gases. In addition, the Program issued a draft loan guarantee solicitation in April 2014, for innovative renewable energy and energy efficiency projects located in the U.S. that



avoid, reduce or sequester greenhouse gases. When finalized, the solicitation is expected to make as much as \$4 billion in loan guarantees available to help commercialize technologies that may be unable to obtain full commercial financing. Given the significant amount of additional funding being made available for loan guarantees and previously identified weaknesses in the Program, we will continue to monitor its activities as part of our normal risk assessment process. In our view, the Loan Guarantee Program warrants special attention by Department officials and, therefore, has been one of our "watch list" items since 2011.<sup>5</sup>

Mr. Chairman, this concludes my statement and I would be pleased to answer any questions that the Subcommittee may have.

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<sup>5</sup> *Special Report on Management Challenges at the Department of Energy - FY2012* (DOE/IG-0858, November 2011)

Mr. MURPHY. I now recognize Mr. Rusco for 5 minutes.

**STATEMENT OF FRANK RUSCO**

Mr. RUSCO. Thank you. Chairman Murphy, Ranking Member DeGette, Ms. Schakowsky, and members of the subcommittee, I am pleased to speak to you today about DOE's loan programs.

Since 2009, DOE has made a total of 38 loans under 3 programs. These loans amount to about \$30 billion, and DOE has about \$45 billion in remaining loan authority. Five of the thirty-eight loans have defaulted, and another four were either deobligated or withdrew prior to disbursement of the loans. DOE is in the process of unraveling the defaulted loans and calculating the losses to the Federal Government.

The Section 1703 Loan Guarantee Program was authorized by Congress in 2005 and was designed to encourage investment in commercial use of new or innovative energy technologies. This program issued its first two loans in February 2014 to support two nuclear reactors under construction in Georgia. The total amount of these two loans was about \$6.2 billion, and DOE has about \$29 billion in remaining 1703 loan authority.

For 1703 loans, the loan recipients are generally required to pay for the expected costs of the loans at the time the loans are made. These expected costs are referred to as credit subsidy costs. The Advanced Technology Vehicles Manufacturing Loan Program was authorized by Congress in 2007 and is designed to encourage the automotive industry to invest in vehicle technologies resulting in greater fuel efficiency of vehicles and components. DOE made five loans under the ATVM Program between September 2009 and March 2011 for a total of \$8.4 billion and has \$16.6 billion in remaining loan authority. For ATVM loans, the Federal Government pays the credit subsidy costs. For the five loans made to date under this program, these credit subsidy costs were \$3.3 billion.

In 2009, as part of the Recovery Act, Congress created the Section 1705 Loan Guarantee Program to support commercial energy projects that use renewable energy, electric-power transmission systems, or leading-edge biofuels. Congress also appropriated funds to pay the credit subsidy costs for 1705 loans. Thirty-one loans were made under 1705 between September 2009 and September 2011, when loan authority expired. The total value of the loans made were \$15.7 billion, and the credit subsidy costs for the loans were \$1.9 billion.

GAO has evaluated DOE's loan programs on an annual basis since 2007 and has found that, over time, DOE has set up the infrastructure to solicit and evaluate loan applications, to estimate credit subsidy costs, and to issue or guarantee loans. DOE is also building its capacity to manage the risk of its existing loan portfolio. In our reports we have made many recommendations intended to improve the functioning of the programs, and DOE has generally been responsive in implementing these recommendations.

There is, however, some question about whether there will be sufficient demand for all remaining loan authority under the 1703 and ATVM programs. For 1703, the fact that borrowers must generally pay for the credit subsidy costs at the time the loans are made may prove to be a deterrent. The 1703 program has offered

numerous solicitations over the past 8 years and evaluated many dozens of applications, but until February of this year, it had been unable to make a single loan. It is also important to note that for the two loans it did make, the borrowers did not pay any credit subsidy cost because DOE estimated these costs to be zero.

We are not questioning DOE's cost estimates for these loans, but we note that under the 1705 program, when the government was paying these costs, the average credit subsidies were about 12.5 percent of the loan value. If similar credit subsidy costs are assessed under the 1703 program in the future, it is unclear that borrowers would find these loans to be economically attractive.

Further, the ATVM program has not made a loan since March 2011, despite having loan authorization and appropriated funds to pay the credit subsidy costs. In a recent report, we found that as of March 2014, the program had only one active loan application, and this loan was for about \$200 million, a small fraction of total remaining loan authority. GAO, therefore, suggested that unless DOE can demonstrate adequate demand for ATVM loan authority, Congress may wish to consider rescinding all or part of the remaining \$4.2 billion in credit subsidy appropriations.

Thank you. This completes my oral remarks. I will be happy to answer any questions you may have.

Mr. MURPHY. I thank the gentleman.

[The prepared statement of Mr. Rusco follows:]

United States Government Accountability Office



Testimony  
Before the Subcommittee on Oversight  
and Investigations, Committee on  
Energy and Commerce, House of  
Representatives

For Release on Delivery  
Expected at 9:15 a.m. ET  
Friday, May 30, 2014

## DOE LOAN PROGRAMS

DOE Has Made More Than  
\$30 Billion in Loans and  
Guarantees and Needs to  
Fully Develop Its Loan  
Monitoring Function

Statement of Frank Rusco, Director  
Natural Resources and Environment

## GAO Highlights

Highlights of GAO-14-645T, a testimony before the Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives

### Why GAO Did This Study

DOE's Loan Programs Office administers the LGP for certain renewable or innovative energy projects and the ATVM loan program for projects to produce more fuel-efficient vehicles and components. Both programs can expose the government and taxpayers to substantial financial risks if borrowers default. These risks are considered in calculating credit subsidy costs. Such costs represent the estimated net long-term cost of extending or guaranteeing credit, in present value terms, over the entire period the loans are outstanding (not including administrative costs). The law requires that the credit subsidy costs of DOE loans and loan guarantees be paid for by appropriations, borrowers, or some combination of both.

This testimony focuses on (1) the status of DOE's loan programs and (2) the findings in GAO's May 2014 report on the extent to which DOE has developed and adhered to loan monitoring policies for its loan programs. This statement is based on a series of GAO reports from 2007 through 2014 that noted concerns about DOE's implementation of the loan programs.

### What GAO Recommends

In May 2014, GAO recommended that DOE fully develop its loan monitoring function by: evaluating loan monitoring effectiveness, staffing key positions, updating management and reporting software, and completing policies and procedures for loan monitoring. DOE generally agreed with the recommendations. GAO is making no new recommendations in this testimony.

View GAO-14-645T. For more information, contact Frank Rusco at (202) 512-3841 or ruscof@gao.gov.

May 30, 2014

## DOE LOAN PROGRAMS

### DOE Has Made More Than \$30 Billion in Loans and Guarantees and Needs to Fully Develop Its Loan Monitoring Function

#### What GAO Found

The Department of Energy's (DOE) three loan programs have made more than \$30 billion in loans and loan guarantees for supporting certain renewable or innovative energy technologies. For the Section 1703 Loan Guarantee Program (LGP), begun in 2006, borrowers generally must pay credit subsidy costs for the loans. In 2014, DOE guaranteed its first two loans under Section 1703 for a total of \$6.2 billion. For those two loan guarantees, DOE calculated credit subsidy costs to be \$0. The 1703 program has \$28.7 billion in remaining loan guarantee authority. In contrast, under Section 1705 of the LGP, which expired September 30, 2011, Congress appropriated funds to pay credit subsidy costs. DOE guaranteed 31 section 1705 loans for \$15.7 billion, and three of these loans have defaulted. The Advanced Technology Vehicles Manufacturing (ATVM) loan program, which was also given appropriations to pay credit subsidy costs, has made 5 loans for \$8.4 billion. The ATVM program has \$16.6 billion of remaining loan authority. Two of the five ATVM loans have defaulted. DOE has not made an ATVM loan since March 2011 and, as of February 2014, it had one active application. In April 2014, GAO reported that unless DOE can demonstrate a demand for new ATVM loans and viable applications, Congress may wish to consider rescinding all or part of the remaining \$4.2 billion in credit subsidy appropriations.

#### Status of DOE Loan Programs

Dollars in billions				
Program	Number of loan guarantees/loans made	Number of loans defaulted	Loan guarantee/loan amounts at closing	Remaining authority
LGP – Section 1703	2	0	\$6.2	\$28.7
LGP – Section 1705	31	3	\$15.7	\$0
ATVM loan program	5	2	\$8.4	\$16.6
<b>Total</b>	<b>38</b>	<b>6</b>	<b>\$30.3</b>	<b>\$45.3</b>

Source: GAO analysis of DOE data.

In May 2014, GAO reported that DOE had not fully developed or consistently adhered to loan monitoring policies for its loan programs. In particular, DOE has established policies for most loan monitoring activities, but policies for some of these activities—for example, for evaluating and mitigating program-wide risk—remain incomplete or outdated. Further, in some cases GAO examined, DOE generally adhered to its loan monitoring policies but, in others, DOE adhered to those policies inconsistently or not at all. For example, DOE did not adhere to its policy requiring it to evaluate the effectiveness of its loan monitoring. DOE did not consistently adhere to policies because the Loan Programs Office was still developing its organizational structure, including its staffing, management and reporting software, and procedures for implementing policies. As a consequence, during a period of significant program events (2009 to 2013), such as 5 borrower defaults, DOE was making loans and disbursing funds without a fully developed loan monitoring function.

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Chairman Murphy, Ranking Member DeGette, and Members of the Subcommittee:

I am pleased to be here today to discuss the Department of Energy's (DOE) loan programs. The Loan Guarantee Program (LGP), authorized by Congress in 2005, was designed to encourage investment in commercial use of new or significantly improved technologies in energy projects because it can be difficult for borrowers to obtain funding for risky new technologies. Similarly, Congress authorized the Advanced Technology Vehicles Manufacturing (ATVM) loan program in 2007. The program is designed to encourage the automotive industry to invest in new technologies that would result in more fuel-efficient passenger vehicles and their components. Subsequently, Congress authorized DOE to make tens of billions of dollars in loans and guarantees, and it appropriated billions of dollars to cover the subsidy costs of those loans and some of the loan guarantees. Both of the programs can expose the federal government to substantial financial risks if borrowers default on their loans.

My testimony draws on our extensive body of work, begun in 2007, examining DOE's loan programs. We have repeatedly reported on our concerns about DOE's implementation of the programs and recommended that DOE complete, regularly update, and follow policies and procedures; better document processes and decisions; develop relevant performance measures and goals; and evaluate program efficiency and effectiveness. I will focus my remarks today on (1) the status of DOE's loan programs and (2) the findings in our most recent report on the extent to which DOE has developed and adhered to loan monitoring policies for its loan programs.

The GAO reports on DOE's Loan Programs Office, the LGP, and the ATVM loan program on which this statement is based were issued from

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February 2007 through May 2014.<sup>1</sup> Each report contains detailed information about the scope and methodology used; in all cases, the work was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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**DOE's Programs  
Have Made  
Approximately \$30  
Billion in Loans and  
Loan Guarantees,  
Mostly Before 2012**

DOE's loan programs have made more than \$30 billion in loans and loan guarantees, mainly from 2009 through 2011. This amount includes approximately \$21.9 billion for 33 loan guarantees made under two programs within the LGP that are authorized under separate sections of Title XVII of the Energy Policy Act of 2005 (EPACT)—sections 1703 and 1705. It also includes \$8.4 billion for 5 loans made under the ATVM loan program (see table 1).

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<sup>1</sup> GAO, *DOE Loan Programs: DOE Should Fully Develop Its Loan Monitoring Function and Evaluate Its Effectiveness*, GAO-14-367 (Washington, D.C.: May 1, 2014); DOE Loan Guarantees: *Further Actions are Needed to Improve Tracking and Review of Applications*, GAO-12-157 (Washington, D.C.: Mar. 12, 2012); Department of Energy: *Advanced Technology Vehicle Loan Program Implementation Is Under Way, but Enhanced Technical Oversight and Performance Measures Are Needed*, GAO-11-145 (Washington, D.C.: Feb. 28, 2011); Department of Energy: *Further Actions Are Needed to Improve DOE's Ability to Evaluate and Implement the Loan Guarantee Program*, GAO-10-627 (Washington, D.C.: July 12, 2010); Department of Energy: *New Loan Guarantee Program Should Complete Activities Necessary for Effective and Accountable Program Management*, GAO-08-750 (Washington, D.C.: July 7, 2008); and *The Department of Energy: Key Steps Needed to Help Ensure the Success of the New Loan Guarantee Program for Innovative Technologies by Better Managing Its Financial Risk*, GAO-07-339R (Washington, D.C.: Feb. 28, 2007).

**Table 1: DOE Loan Programs' Loan Guarantee and Loan Amounts, Remaining Authority, and Remaining Credit Subsidy Appropriations**

Dollars in billions

Program	Loan guarantee/loan amounts at closing	Remaining authority	Remaining appropriations for credit subsidy costs
LGP – Title XVII Section 1703	\$6.2	\$28.7 <sup>a</sup>	\$0.2 <sup>b</sup>
LGP – Title XVII Section 1705	\$15.7	\$0 <sup>c</sup>	\$0 <sup>c</sup>
ATVM loan program	\$8.4	\$16.6	\$4.2
<b>Total</b>	<b>\$30.3</b>	<b>\$45.3</b>	<b>\$4.4</b>

Source: GAO analysis of DOE data.

<sup>a</sup>This amount includes DOE's estimate of \$848 million in additional loan guarantees that can be supported by the \$170 million in credit subsidy appropriations for energy efficiency and renewable energy projects.

<sup>b</sup>These credit subsidy appropriations are only for energy efficiency and renewable energy projects, not other categories covered by section 1703 such as nuclear generation and advanced fossil energy. This number is rounded from \$170 million.

<sup>c</sup>The authority to enter into loan guarantees under section 1705 expired on September 30, 2011.

**After About 8 Years, DOE Guaranteed Two Loans for \$6.2 Billion under the Section 1703 Loan Guarantee Program**

In February 2014, DOE made loan guarantees for about \$6.2 billion to two partners in the Vogtle nuclear generation project.<sup>2</sup> (See app. I for a complete list of DOE loan guarantees and loans as of March 2014.) DOE issued these guarantees under its section 1703 program, which DOE established about 8 years ago. Section 1703 of EPCA authorized DOE to guarantee loans for energy projects that (1) use new or significantly improved technologies as compared with commercial technologies already in service in the United States and (2) avoid, reduce, or sequester emissions of air pollutants or man-made greenhouse gases. The law requires that the credit subsidy costs of loans and loan guarantees be paid for by appropriations, borrowers, or some combination of both. Credit subsidy costs represent the estimated net long-term cost of extending or guaranteeing credit, in present value terms, over the entire period the loans are outstanding (not including administrative costs).<sup>3</sup> Initially, Congress provided no appropriation to cover the credit subsidy costs of

<sup>2</sup> This project involves constructing two new nuclear reactors at Plant Vogtle in Georgia.

<sup>3</sup> In calculating the subsidy cost for a guaranteed loan program, agencies estimate (1) payments from the government to cover interest subsidies, defaults, delinquencies, or other payments and (2) payments to the government including fees, penalties, and recoveries on default.



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loan guarantees under section 1703, requiring all borrowers that receive a loan guarantee to pay a fee to cover the credit subsidy costs. In April 2011, Congress appropriated \$170 million to pay credit subsidy costs for energy efficiency and renewable energy projects. DOE estimated that the \$170 million would cover subsidy costs for about \$848 million in loan guarantees, assuming a credit subsidy cost rate of 20 percent. As Congress did not provide appropriations for credit subsidy costs for nuclear generation projects, such as Vogtle, the costs for those loan guarantees must be covered by borrower fees. DOE calculated the credit subsidy costs as \$0 for the Vogtle loan guarantees.

DOE has about \$28.7 billion in remaining loan guarantee authority for the section 1703 program, about \$3.8 billion of which DOE conditionally committed,<sup>4</sup> in 2010, for two guarantees—one for the third partner in the Vogtle project and another for a nuclear enrichment project. In December 2013, DOE announced a new solicitation for applications for up to \$8 billion in loan guarantees for advanced fossil energy projects. Most recently, in April 2014, DOE announced a draft solicitation for up to \$4 billion in guarantees for energy efficiency and renewable energy projects.

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**DOE Guaranteed Nearly  
\$16 Billion under the  
Section 1705 Loan  
Guarantee Program,  
Mainly in 2011**

DOE had made 31 loan guarantees for approximately \$15.7 billion under its section 1705 program by September 30, 2011, when authority to enter into loan guarantees under this section expired. The American Recovery and Reinvestment Act (Recovery Act) added section 1705 to EPACT in February 2009. Section 1705 expanded the LGP and provided funding to include projects that use commercial energy technology employing renewable energy systems, electric power transmission systems, or leading-edge biofuels that meet certain criteria. The Recovery Act provided about \$2.4 billion in appropriations to cover credit subsidy costs for loan guarantees under this section.<sup>5</sup>

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<sup>4</sup> A conditional commitment is a commitment by DOE to issue a loan guarantee if the applicant satisfies specific requirements. The Secretary of Energy has the discretion to cancel a conditional commitment at any time for any reason prior to the issuance of a loan guarantee.

<sup>5</sup> The Recovery Act initially appropriated nearly \$6 billion to pay credit subsidy costs; however, Congress subsequently reduced this amount by transfer and rescission to fund other priorities.

DOE made these guarantees for projects involving biomass, geothermal, solar, and wind generation of electricity; energy storage; solar manufacturing; and electricity transmission. According to DOE's website, 15 projects (representing 18 loan guarantees) are generating electricity.<sup>6</sup> Two borrowers withdrew from the program in 2012 before starting to draw funds from their loans. Additionally, in September and October 2013, DOE deobligated 2 loan guarantees because the borrowers did not seem likely to meet the loan conditions required to begin drawing on their loans. Three other borrowers that received loan guarantees have defaulted and filed for bankruptcy—one of these borrowers has been restructured along with its loan guarantee, which remains active; the other two borrowers are in liquidation proceedings. When issuing the loan guarantees, DOE obligated \$1.9 billion for the credit subsidy costs of the guarantees. The remaining approximately \$550 million in LGP Recovery Act credit subsidy appropriations were rescinded at the end of 2012.<sup>7</sup> Since the guarantees were issued, DOE has reestimated the credit subsidy costs, which it is required to do annually. We are initiating work to examine how the costs have changed.

**DOE Loaned \$8.4 Billion under the ATVM Loan Program, with the Most Recent Loan in 2011**

Between September 2009 and March 2011, DOE made five ATVM loans worth \$8.4 billion. The ATVM loan program was established in December 2007 by the Energy Independence and Security Act (EISA), which authorized up to \$25 billion in direct loans to manufacturers to produce more fuel-efficient vehicles and components. The fiscal year 2009 Continuing Resolution provided the program with \$7.5 billion in appropriations to cover credit subsidy costs of which DOE has used \$3.3 billion for the five loans it made, leaving \$4.2 billion in remaining credit subsidy appropriations. These loans went to both established automakers and start-up companies for the manufacture of fuel-saving enhancements

<sup>6</sup> Two projects, Desert Sunlight and Ivanpah, have multiple guarantees/borrowers associated with them. See appendix I.

<sup>7</sup> These funds were rescinded in accordance with the repayment provisions of section 1306 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, except for \$96 million for which the President waived the repayment provisions on December 28, 2012. In March 2013, DOE officials told us that they anticipate they will need the maintained funds to pay the credit subsidy costs of modifications that may be made to existing loan guarantees issued under section 1705. Modification means a government action, such as a change in the terms of the loan contract or legislation that provides new collection tools, that was not anticipated in the original credit subsidy cost estimation. It does not include routine administrative workouts of troubled loans or loans in imminent default.

of conventional vehicle technology, plug-in hybrids, and all-electric vehicles. In May 2013, one borrower paid back its loan. Two ATVM borrowers have defaulted on their loans and, in 2013, DOE sold the defaulted loan notes in auction proceedings.

DOE has not made an ATVM loan since March 2011. As of February 2014, DOE had one active application for about \$200 million. DOE has asserted that new outreach efforts to potential applicants, particularly component manufacturers, will increase awareness and interest in the program and lead to additional applications in 2014. In April 2014, we reported that unless DOE can demonstrate a demand for new ATVM loans and viable applications, Congress may wish to consider rescinding all or part of the remaining \$4.2 billion in credit subsidy appropriations.<sup>8</sup>

#### DOE Has Not Fully Developed or Consistently Adhered to Its Loan Monitoring Policies

In May 2014, we reported on DOE's monitoring of its approximately \$30 billion portfolio of loans and guarantees. We found DOE has not fully developed or consistently adhered to loan monitoring policies for its loan programs. In particular, DOE has established policies for most loan monitoring activities, but policies for some of these activities—for example, for evaluating and mitigating program-wide risk—remain incomplete or outdated. Further, in some cases we examined, DOE generally adhered to its loan monitoring policies but, in others, DOE adhered to those policies inconsistently or not at all. For example, DOE did not adhere to its policy requiring it to evaluate the effectiveness of its loan monitoring. We found that DOE did not consistently adhere to policies because the Loan Programs Office was still developing its organizational structure, including its staffing, management and reporting software, and procedures for implementing policies. As a consequence, DOE was making loans and disbursing funds from 2009 through 2013 without a fully developed loan monitoring function.

To provide greater assurance that DOE is effectively monitoring its loans, in our May 2014 report we recommended that the Secretary of Energy direct the Executive Director of the Loan Programs Office to fully develop its organizational structure by staffing key monitoring positions, updating management and reporting software, and completing policies and

<sup>8</sup> GAO, 2014 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits, GAO-14-343SP (Washington, D.C.: Apr. 8, 2014).

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procedures for loan monitoring and risk management. We further recommended that the Secretary direct the Executive Director to evaluate the effectiveness of DOE's monitoring as called for by its policies. DOE generally agreed with the recommendations.

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Chairman Murphy, Ranking Member DeGette, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

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**GAO Contact and  
Staff  
Acknowledgments**

If you or your staff members have any future questions about this testimony, please contact me at (202) 512-3841 or [ruscof@gao.gov](mailto:ruscof@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Key contributors to this testimony include Karla Springer, Assistant Director; Cindy Gilbert; Ryan Gottschall; Cynthia Norris; Barbara Timmerman; and Jarrod West.

## Appendix I: DOE Loan Guarantees and Loans as of March 2014

Dollars in millions				
Program/borrower	Sector	Loan guarantee/ loan amount at closing	Closing date	Notes/status
<b>Loan Guarantee Program (LGP) - Title XVII Section 1705</b>				
1366 Technologies Inc.	Solar manufacturing	\$143	9/8/11	
Abengoa Bioenergy Biomass of Kansas, LLC	Biomass	127	9/29/11	
Abound Manufacturing Solar, LLC	Solar manufacturing	370	12/9/10	Defaulted/bankrupt <sup>b</sup>
AES ES Westover, LLC	Transmission	17	12/22/10	Withdrew prior to drawing funds
Agua Caliente Solar, LLC	Solar generation	967	8/5/11	
Arizona Solar One, LLC (aka Abengoa Solar, Inc; Solana)	Solar generation	1,359	12/20/10	
AV Solar Ranch 1, LLC	Solar generation	646	9/30/11	
Caithness Shepherds Flat <sup>a</sup>	Wind generation	1,314	12/16/10	
Cogentrix of Alamosa, LLC	Solar generation	89	9/9/11	
Desert Sunlight 250, LLC <sup>a</sup>	Solar generation	660	9/29/11	Part of overall Desert Sunlight project
Desert Sunlight 300, LLC <sup>a</sup>	Solar generation	801	9/29/11	Part of overall Desert Sunlight project
Genesis Solar, LLC <sup>a</sup>	Solar generation	852	8/26/11	
Granite Reliable Power, LLC <sup>a</sup>	Wind generation	169	9/23/11	
Great Basin Transmission South, LLC (aka SWIP/On Line)	Transmission	324	2/11/11	
High Plains Ranch II, LLC (aka Sunpower Corp CA Valley Solar Ranch)	Solar generation	1,189	9/30/11	
Kahuku Wind Power, LLC	Wind generation	117	7/26/10	
Mesquite Solar 1, LLC	Solar generation	330	9/28/11	
Mojave Solar LLC (aka Abengoa Solar Mojave)	Solar generation	1,124	9/23/11	
NGP Blue Mountain I, LLC <sup>a</sup>	Geothermal	99	9/3/10	
OFC 2, LLC (aka Omat) <sup>a</sup>	Geothermal	350	9/23/11	
Poet Project Liberty, LLC	Biomass	103	9/23/11	Withdrew prior to drawing funds
Prosun Project Company, LLC (aka Project Amp/Photon) <sup>a</sup>	Solar generation	1,400	9/30/11	Deobligated prior to drawing funds
Record Hill Wind, LLC	Wind generation	102	8/15/11	
Solar Partners I (aka Brightsource Ivanpah II)	Solar generation	514	4/5/11	Part of overall Ivanpah project

Appendix I: DOE Loan Guarantees and Loans  
as of March 2014

Dollars in millions				
Program/borrower	Sector	Loan guarantee/ loan amount at closing	Closing date	Notes/status
Solar Partners II (aka Brightsource Ivanpah I)	Solar generation	486	4/2/11	Part of overall Ivanpah project
Solar Partners VIII (aka Brightsource Ivanpah III)	Solar generation	510	4/5/11	Part of overall Ivanpah project
Solopower, Inc.	Solar manufacturing	185	8/19/11	Deobligated prior to drawing funds
Solyndra, Inc.	Solar manufacturing	535	9/4/09	Defaulted/bankrupt <sup>b</sup>
Stephentown Regulation Services, LLC (aka Beacon Power Corporation)	Energy storage	43	8/6/10	Defaulted/restructured - restructured guarantee is called Stephentown Spindle, LLC <sup>c</sup>
Tonopah Solar Energy (aka Solar Reserve, LLC)	Solar generation	692	9/28/11	
USG Oregon, LLC	Geothermal	94	2/23/11	
<b>Section 1705 subtotal</b>		<b>\$15,711</b>		
<b>LGP - Title XVII Section 1703</b>				
Georgia Power Company	Nuclear generation	\$3,462	2/20/14	Part of overall Vogtle project
Oglethorpe Power Corporation	Nuclear generation	2,722	2/20/14	Part of overall Vogtle project
<b>Section 1703 subtotal</b>		<b>\$6,184</b>		
<b>LGP subtotal</b>		<b>\$21,895</b>		
<b>Advanced Technology Vehicles Manufacturing (ATVM) loan program</b>				
Fisker Automotive, Inc.	Automotive manufacturing	\$529	4/22/10	Defaulted/auctioned (subsequently bankrupt) <sup>b</sup>
Ford Motor Company	Automotive manufacturing	5,937	9/16/09	
Nissan North America, Inc.	Automotive manufacturing	1,448	1/28/10	
Tesla Motors, Inc.	Automotive manufacturing	465	1/20/10	Repaid in full
The Vehicle Production Group, LLC	Automotive manufacturing	50	3/10/11	Defaulted/auctioned (subsequently restructured by the purchaser) <sup>b</sup>
<b>ATVM subtotal</b>		<b>\$8,429</b>		
<b>Total</b>		<b>\$30,323</b>		

Source: GAO analysis of DOE data.

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Appendix I: DOE Loan Guarantees and Loans  
as of March 2014

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Note: The loan amounts reflected above are those that appear in the Department of Energy's (DOE) accounting system. They include the full amount of the loans partially guaranteed through the Financial Institution Partnership Program (FIPP) and do not include capitalized interest. As such, the amounts and total for LGP Section 1705 above vary from those presented in GAO-12-157, table 9, which did not count the full loan amount for FIPP guarantees and did include capitalized interest.

\*FIPP transaction. Under FIPP, project developers partnered with private lenders to apply to DOE for partial guarantees. In a FIPP financing DOE provided a guarantee for up to 60 percent of a loan. The lender applicants were required to hold at least 20 percent of the credit exposure for the project. The loan amount in the above table represents the full loan amount rather than the partial guarantee, per DOE's accounting system.

<sup>3</sup>DOE's recoveries for some of the defaulted loans were pending at the time of our report, so we did not estimate DOE's losses at the time. We are currently initiating work to examine the estimated costs.

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## Related GAO Products

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*DOE Loan Programs: DOE Should Fully Develop Its Loan Monitoring Function and Evaluate Its Effectiveness.* GAO-14-367. Washington, D.C.: May 1, 2014.

*Federal Support for Renewable and Advanced Energy Technologies.* GAO-13-514T. Washington, D.C.: April 16, 2013.

*Department of Energy: Status of Loan Programs.* GAO-13-331R. Washington, D.C.: March 15, 2013.

*DOE Loan Guarantees: Further Actions Are Needed to Improve Tracking and Review of Applications.* GAO-12-157. Washington, D.C.: March 12, 2012.

*Department of Energy: Advanced Technology Vehicle Loan Program Implementation Is Under Way, but Enhanced Technical Oversight and Performance Measures Are Needed.* GAO-11-145. Washington, D.C.: February 28, 2011.

*Department of Energy: Further Actions Are Needed to Improve DOE's Ability to Evaluate and Implement the Loan Guarantee Program.* GAO-10-627. Washington, D.C.: July 12, 2010.

*Department of Energy: New Loan Guarantee Program Should Complete Activities Necessary for Effective and Accountable Program Management.* GAO-08-750. Washington, D.C.: July 7, 2008.

*Department of Energy: Observations on Actions to Implement the New Loan Guarantee Program for Innovative Technologies.* GAO-07-798T. Washington, D.C.: April 24, 2007.

*The Department of Energy: Key Steps Needed to Help Ensure the Success of the New Loan Guarantee Program for Innovative Technologies by Better Managing Its Financial Risk.* GAO-07-339R. Washington, D.C.: February 28, 2007.



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Mr. MURPHY. I am now going to recognize myself for 5 minutes.  
Mr. Davidson, how long have you been running the DOE's Loan Programs Office, did you say?

Mr. DAVIDSON. Mr. Chairman, I began there in May of last year, so one year.

Mr. MURPHY. And as the head of the Loan Programs Office, you report directly to the Secretary; am I correct on that?

Mr. DAVIDSON. Correct.

Mr. MURPHY. So, have you had meetings with Secretary Moniz to discuss the LPO?

Mr. DAVIDSON. Yes.

Mr. MURPHY. And what is the Secretary's vision for how the remaining \$40 billion in loan authority should be used?

Mr. DAVIDSON. Thank you for that question. The Secretary's point of view is that we move ahead and do what we believe the statute provides for, which is within our area, which is now the 1703.

Our 1705 funding, which is the stimulus act, that loan program is over, so now we have the 1703, which is the self-pay authority.

Mr. MURPHY. Pull that mic a little bit closer because I want to make sure we hear.

Let me ask about specifics. So has he directed you in anything such as fossil fuel, carbon capture sequestration, nuclear power plants?

Mr. DAVIDSON. We don't discuss specific transactions. What we talk about is the ability to put out solicitations. As was remarked, we have not put out a solicitation in a number of years. We put out the first new solicitation under 1703 in a number of years, which is the advanced fossil fuel solicitation.

Mr. MURPHY. But I assume, as head of the LPO, you receive periodic status reports, loan applications, and the existing portfolio; is that correct?

Mr. DAVIDSON. Excuse me?

Mr. MURPHY. I'm assuming that you receive reports on the loan applications and the existing portfolio?

Mr. DAVIDSON. Correct.

Mr. MURPHY. OK. Do you regularly brief the Secretary on the current status of all the aspects of the program?

Mr. DAVIDSON. The Secretary and I meet on a quarterly basis.

Mr. MURPHY. Two years ago this committee asked the DOE to submit a list of projects that applied for loan guarantees. Can you tell me how many of the active loan guarantee applications are still in the queue?

Mr. DAVIDSON. We have been providing that to certain areas of Congress. I'm not sure it did this committee, but we're happy to do that.

Mr. MURPHY. Do you have any idea how many are still in the queue, by any chance?

Mr. DAVIDSON. Our total applicants?

Mr. MURPHY. Yes.

Mr. DAVIDSON. We have a number of applicants still in the queue. As we shut down, as the 1705 program ended, all those that were still in the queue were allowed to proceed if they had been active. So of that, we have a number of active applications. We

don't disclose the exact number, but there are a handful of active applications. On the renewable side, there are a handful of active applications from earlier fossil solicitations we did in 2008.

Mr. MURPHY. Can you describe the nature of those fossil solicitations in general?

Mr. DAVIDSON. Well, Mr. Chairman, if I can go back, I'll go back. As I know many of you on the committee are aware, we did a solicitation in 2008 which was really about a coal gasification. It was a very specific solicitation. At that time a number of applications came in, I think 10 or so at the time. Some of those have remained active. And are still in the queue, and are still being pursued, and are in due diligence. Many of those projects, the sponsors withdrew the projects primarily because of what's happened with natural gas. And the decrease in the cost of natural gas has made those projects not economically viable, so the developers have withdrawn.

Mr. MURPHY. Mr. Rusco, let me ask you, GAO has reviewed the loan program extensively, as you pointed out. What do you see as the largest risk in the program as it is currently run both in terms of the loan origination and the long term?

Mr. RUSCO. In terms of the front-end process of the loan origination, I would say DOE does not have a perfect record of choosing viable projects to support. Most of their experience is in the 1705 program, where the Federal Government paid the credit subsidy cost, but in that program, DOE made loans to four solar manufacturers, and of those four loans, two have defaulted, and one was deobligated prior to loan disbursement. In large part, these problems stem from growing competition from lower-cost producers of solar panels in China and elsewhere, but—

Mr. MURPHY. Can I interrupt you on that point, because I know that one of the problems we had with Solyndra when there was competition from China, unfortunately, is that the issue was—when you talk about viability, are you referring to viability of where the company is financially viable, if the nature of the project itself is going to be viable as new technologies develop, or both?

Mr. RUSCO. Well, I think that the energy sector is changing rapidly, constantly, and keeping abreast of that and making sure that you are supporting projects that will remain viable is a very difficult proposition.

Mr. MURPHY. Particularly when you are doing a 20- or 30-year loan.

Mr. RUSCO. Yes, that is a concern, and—so on the back end, we remain concerned that DOE has not fully set up and staffed its portfolio risk management procedures and policies. DOE must remain vigilant to ensure it's well informed and prepared to respond to any emerging risks to its existing loans, and that could include risks associated with lower-priced natural gas, as was mentioned, or any other changes in the markets.

Mr. MURPHY. Thank you. I recognize I am out of time. I'll now recognize—you ready? We'll recognize Mr. Green first for 5 minutes, if you're ready, Mr. Green, from Texas.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. Davidson, just off the top of my head, why are the number of applications privileged, that you can't share with a congressional committee?

Mr. DAVIDSON. I believe it's our DOE policy. We state the number of applicants who have—the specific number of applicants we try not to release because there are potential competitive issues involved. We try and really safeguard the privacy information of those people that apply, trade secrets, those types of issues, and the feeling is if people know how many applied for a certain type of solicitation, it could determine if there are competitors applying or things of that nature.

Mr. GREEN. I understand that, and obviously I want business records and proprietary information, but it seems like a public loan would be—at least the information for the number—I'm not talking about the names even, but that would be helpful, of someone who's applied, but that's separate from my line of questions. I just didn't know they were—even the number of applications, I never had somebody say we can't tell you how many we have. It just bothers me as a Member of Congress.

In the most recent solicitations released by your office for advanced fossil energy projects, an eligible project could apply as an advanced resource development project. These projects include projects that employ new or significantly improved technologies to economically develop and recover and produce traditional fossil energy resources with reduced greenhouse gas emissions. Just for clarification, an eligible project could involve either hydraulic fracking as a technology or natural gas as a traditional resource; is that correct?

Mr. DAVIDSON. Correct.

Mr. GREEN. Because coming from Texas, I also know we have some issues that we need to do. If we want to continue the successful development of natural gas, we need to use technology, whether it's private sector or public sector, to be able to safely get that product out of the ground and as clean as we can do. Is the Department of Energy open to something like that as a grant project?

Mr. DAVIDSON. Yes. Thank you, Congressman, for that question.

First of all, on the prior point, let me just say we're happy to work with your staff to try and get you the information on the number of applicants, so we'll follow up with you on that.

I'm glad you brought up the advanced fossil. We are very pleased to be having issued that in December with the support, obviously, of the Secretary, and it is the first time in recent years that we'll be able to move on loans that are not just in the renewable side and the auto side.

We think there's a great opportunity within the fossil fuel area. That's all the way from extraction through the generation side, through the end use in the area of energy efficiency and combined heat and power. We believe developers and project sponsors will have many uses for the fossil fuel.

As you know, there are four requirements for any 1703 loan to be—

Mr. GREEN. I only have 5 minutes, and let me first—under the ATVM Program, Secretary Moniz has stated DOE would specifically reach out to component manufacturers. Has the DOE reached out to similar technology companies in the hydraulic fracking sector?

Mr. DAVIDSON. We just don't have the ability to do that the way our solicitation is structured. What we do is we put out a solicitation, which we have now done, and then we have to wait for companies to apply to us. We are not allowed to engage specifically with companies. We can't go out and pick one company or another. We just have to say, the Department of Energy is open for business, here are the requirements, so please apply for the program. But we very much encourage companies involved in the front end, the extractive side of the industry, to apply to the program.

Mr. GREEN. Mr. Chairman, this wasn't part of the loan program in the 2005 act, but we did do an amendment to the 2005 act for directional drilling. We had a Texas company who did its best they could with the technology, and the 2005 act authorized, but the DOE lab in Wyoming—because of former Congressman Barbara Cubin—and they did the research so we can. And part of our success in natural gas is not only hydrofracking, but also the directional drilling, and Department of Energy, I think, helped that company in the industry to be able to extend that reach from 35,000 feet to more, but—and that's one of the successes, I think, of what happened in the 2005 Energy Act. It wasn't a loan program, but it actually helped us with the success we have today.

So I know I'm almost out of time, Mr. Chairman. I appreciate you and our ranking member having this hearing today.

Mr. MURPHY. The gentleman yields back.

I now recognize the vice chairman of the full committee, Mrs. Blackburn of Tennessee for 5 minutes.

Mrs. BLACKBURN. Thank you, Mr. Chairman, and I'm going to try not to take that full 5, but I want to welcome our witnesses. We do thank you for being here. As you know, we have a history, as Dr. Burgess said, of being very concerned and very interested in this program and the process that takes place at the LPO.

Mr. Davidson, I have to tell you, I found your background fascinating, and Blackstrap Communications, and the fact that you were in the communications world and now you moved over to the energy world, and how you took that name as a tribute to your grandfather and with his selling molasses, I thought that was really quite fascinating. And maybe we should have you come back when we're talking telecommunications and broadcasting.

A couple of questions for you. On clarification, if I can, on just how many loans and loan guarantees you all have closed on and how many you are actively monitoring, what is your total?

Mr. DAVIDSON. Thank you, Congresswoman. Thank you first for those nice comments to begin.

The total number of loans we have that we're actively—that in our portfolio, we've lent money to, are 33.

Mrs. BLACKBURN. So you do have a total of 33 that are out there, and you're actively monitoring those. And the amount of those loans, is it about \$28 billion?

Mr. DAVIDSON. It's a little closer to \$30 billion now.

Mrs. BLACKBURN. OK. So it's closer to \$30 billion.

And how much of your total loan funds have been disbursed?

Mr. DAVIDSON. Well—

Mrs. BLACKBURN. By percentage.

Mr. DAVIDSON. Well, the short answer is we have approximately 26 billion in the 1703 authorization still available and 16 billion in the ATVM available.

Mrs. BLACKBURN. OK.

Mr. DAVIDSON. So, a little over \$40 billion still remaining.

Mrs. BLACKBURN. OK. All righty. And let me ask you this. What I'd like to know, since we've had so many questions about due diligence and how the program goes about its due diligence, describe for me how the LPO actually monitors that portfolio.

Mr. DAVIDSON. Thank you, Congresswoman, for that. First let me say, as you mentioned, I had been in the private sector for a number of years. I was in the banking business for a while, and I've been now in government for the last 5 years, State government and now here, and I just would like to reassure you, from what I've seen in the private sector and what I've seen at the LPO in my one year there, I think our processes, the way we go through our due diligence, the way we involve both our staff and outside consultants when we need them, outside engineers and outside financial advisors, is really first rate, and it's really very thorough and—

Mrs. BLACKBURN. I've only got 5 minutes. What I'm looking for is specifics.

Mr. DAVIDSON. OK.

Mrs. BLACKBURN. What are some of your benchmarks? What are some of the components that you're looking for as you do this due diligence? And if you cannot answer that question right now, what we want to see is to see that in writing.

And, Mr. Rusco, in your report, you noted that while DOE had implemented some reforms, they have not done written policies and procedures for those loan-monitoring activities; is that correct?

Mr. RUSCO. That's correct. There are several areas where we want to see additional improvements. DOE did not consistently adhere to its policies for monitoring and reporting on credit risk, for example, on ongoing loans. They should be reviewing that credit risk periodically and writing reports.

Mrs. BLACKBURN. So, they're still conducting their business, and too much of a subjective format; would that be correct?

Mr. RUSCO. I think that what they were doing is they have not yet put into place specific policies and guidance that they are following consistently, and they really need to do that to ensure that—

Mrs. BLACKBURN. Sometimes we say that's kind of making it up as you go along.

OK. Mr. Chairman, I'm going to yield back.

Mr. MURPHY. The gentlewoman yields back.

I Now recognize the ranking member Ms. DeGette for 5 minutes.

Ms. DEGETTE. Thank you, Mr. Chairman, and thank you for having this hearing. It's been several years, and I think a review of these programs is really overdue, and I appreciate it.

I also want to thank Mr. Green for filling in for me while I was at a preexisting commitment this morning.

I have some questions about how the loan guarantee program is working, since this is the first hearing we've had since Solyndra, and I want to start with you, Mr. Davidson. By what metrics does

the Loan Programs Office assess whether the clean energy loan portfolio is performing well, and what do those metrics show?

Mr. DAVIDSON. Thank you for the question. Primarily two ways we look at it. One is on the financial performance, how we're doing that way. I think, as I mentioned in my statement, of the 30 billion portfolio outstanding, 98 percent of that portfolio is performing and paying back. We have had losses of 2 percent that——

Ms. DEGETTE. Wait. What's the amount of those losses?

Mr. DAVIDSON. The losses are approximately 700 million over the five projects that have been described.

Ms. DEGETTE. OK.

Mr. DAVIDSON. Of the 30 billion portfolio. So we look at the financial performance as one metric, and the others we really look at the intention was are we bringing new forms of energy technology to market that would not be possible without this program?

Ms. DEGETTE. And what's your view on that?

Mr. DAVIDSON. We think we have been very successful in a number of ways. If you look at the utility-scale solar industry, that did not exist. Before the Loan Programs Office made the first five loans to utility-scale solar, the government made the first five loans. We stopped making those loans in the 1705 program, and in 2011, since that time, 10 new utility-scale solar facilities have been built without a dime of government money. That's a success.

Ms. DEGETTE. OK. I'm sorry.

Mr. DAVIDSON. So, we look at the nuclear facility. No nuclear facility had been built in this country in 30 years. Now the first one is being built. We think that's directly related to this program.

And then, finally, a lot of what's happened in the auto sector with Ford retooling 13 facilities, the \$5.9 billion loan from the ATVM Program went to Ford for that. Nissan was able to bring the batteries, which they had been producing in Japan. We brought those and now built a factory in Smyrna, Tennessee, where we're making those battery packs.

Ms. DEGETTE. Thanks. OK.

So now, when Congress passed the loan guarantee program, they did that in order to help encourage funding of programs that the private sector would find too risky to fund on its own; is that correct?

Mr. DAVIDSON. That is correct.

Ms. DEGETTE. And so, therefore, are the amount of losses that you had described as seeing in line of what was expected by Congress when they passed that section XVII program into law?

Mr. DAVIDSON. Thank you, Congresswoman, for that question.

Ms. DEGETTE. Well——

Mr. DAVIDSON. A member or——

Ms. DEGETTE. Do you think that was in line with what Congress expected when they passed that into law?

Mr. DAVIDSON. I think what Congress, when they passed, there was kind of the credit subsidy number that was mentioned for ATVM, that number was 7.5 billion, and for the 1705 program was approximately 2½ billion. So essentially Congress said losses essentially could be high as \$10 billion for our program. As I mentioned, losses to date are 700 million——

Ms. DEGETTE. So, actually it's less——



Mr. DAVIDSON [continuing]. So more than 90 percent of what was allocated remains.

Ms. DEGETTE. It's less than what was expected from Congress.

Mr. DAVIDSON. Far less than what was——

Ms. DEGETTE. And how has the DOE program performed compared to what we'd expect from a private-sector portfolio?

Mr. DAVIDSON. It's a little hard to make that direct connection because by law and the way Congress set up our program, we are funding technology risk which normally commercial lenders would not make.

Ms. DEGETTE. Right.

Mr. DAVIDSON. So you would expect our portfolio to fare worse. The fact that we have a 98 percent success rating, I think, is a testament to the due diligence process we do and the loan monitoring that we continue.

Ms. DEGETTE. OK. But nonetheless, you have incurred losses, and so I'm wondering has DOE made changes and improvements in response to those lessons learned?

Mr. DAVIDSON. Thank you for that question.

We certainly have learned—and I really would like to thank the great work that the GAO and the IG have done. We agree fully with the recommendations that they have made, particularly on the Allison report. What we have done is our policies and procedures, as we go through our due diligence, and as we go through our portfolio monitoring, are very robust, and I believe that's why we have such a high success rate with our loans.

What we have not done, and what we are in the process of doing, is fully documenting our active policies and procedures. So we agree fully. We need to document what we are doing, but we are in the process of putting the documents together.

Ms. DEGETTE. But the GAO report, you agree with the GAO report, you need to work on documenting?

Mr. DAVIDSON. Exactly. And we were working very closely with those recommendations——

Ms. DEGETTE. And when do you expect to have those recommendations?

Mr. DAVIDSON. We are working on them now. We expect to have them within the next few months.

Ms. DEGETTE. Thank you very much.

Mr. MURPHY. Thank you. The gentlelady yields back.

I now recognize Dr. Burgess for 5 minutes.

Mr. BURGESS. Thank you, Mr. Chairman. So, again, thanks to our witnesses for being here.

Mr. Davidson, one of the factors we identified as causing problems during the Solyndra investigation was that deadlines seemed to be dictated by outside forces, perhaps something in the stimulus bill or a political deadline, rather than when the loan guarantee was actually ready to close. So the question is what deadlines will govern the review of applications that are being submitted in response to the new loan program solicitations or under the existing ATVM Program?

Mr. DAVIDSON. Thank you, Congressman, for the question. On the timeframe of when we get back to applicants?

Mr. BURGESS. Yes, sir.

Mr. DAVIDSON. OK. Slightly different by our programs. For the 1703 advanced fossil solicitation, which is now our only active solicitation on the 1703 side, we have part 1 and a part 2 application. Part 1, applicants apply to a part 1, and there we see if they meet the four required criteria, which is a new technology or significantly enhanced commercial technology; does it reduce sequestered greenhouse gasses; is the facility located in the United States or its territories; and do they have the ability to pay it back, reasonable prospect of repayment. When applicants submit, our team conducts that part 1 review.

We have only just issued that solicitation. Our first part 1 application date was in February. We had a number of applicants for that part 1, and I can say now, without trying to get into too much detail, because we just don't do that, that those part 1s have now been fully vetted, and many of them are moving into the part 2. And that has now taken us approximately 2 or 3 months for that part 1.

Mr. BURGESS. You understand the committee's concern. When reviewing the data around the Solyndra application, it did seem that there were—you look through the e-mails back and forth, and it did seem that there were political deadlines that really—or political pressures that were actually impacting upon the timeline, and you are comfortable at this point that that is not occurring now?

Mr. DAVIDSON. Thank you for that question. I'm very confident that is not occurring now. And I'm currently—as one of the missions I had when I came in, as I mentioned, I had a real business background, and I think it's very important that you be responsive to applicants. And I think that was an issue we had before. We now are trying to move very quickly to be responsive to all those in our pipeline and all future applicants. We are very focused on quickly turning around part 1s, letting applicants know if they will move into part 2 or will they be out of the process.

Mr. BURGESS. There's a semiannual report to Congress from April 1, 2012, from the Office of Inspector General from the Department of the Treasury. In that report, on the Department of Treasury's inspector general's consultation on the Solyndra loan guarantee, Department of Treasury pledged to work with Department of Energy to define the circumstances that constitute a deviation from the material financial terms and conditions of the loan guarantee and Treasury's consultative role.

So has the Department of Energy reached a full understanding with Treasury so that these definitions are now established, and a plan for cooperation and respective roles formulated and made public?

Mr. DAVIDSON. Congressman, I have to say I'm not familiar with that issue, so if it's OK with you, I'll research and get back to you on that.

Mr. BURGESS. So do you and Treasury talk?

Mr. DAVIDSON. We have a very robust interagency process. Prior to our loans, we meet with OMB to discuss our deals, and Treasury is invited to that meeting.

Mr. BURGESS. With all due respect, the information that this committee and the committee staff uncovered during the Solyndra investigation, it really didn't seem that there was a robust relation-

ship between Department of Treasury and Department of Energy, and really that's what led to some of the concerns that are outlined in this report.

I'm quoting here: "We found that Treasury did perform a consultation on the terms and conditions of the Solyndra loan guarantee. However, whether that consultation met the intent of applicable law and regulation is not clear because Treasury's consultative role was not sufficiently defined."

Have we moved past that point?

Mr. DAVIDSON. Congressman, I can't speak to the time before I was here which that report indicates, but I'm very pleased now with the relationship we have on an interagency basis with both Treasury and the Office of Management and Budget. We meet with them regularly. They are aware of our portfolio.

Mr. BURGESS. I would like for you for the record to go back and do this analysis and report, enter in writing for the committee as to how going forward we can maintain that expectation, that the consultation between Energy and Treasury will, in fact, occur the way it was designed to occur.

Mr. DAVIDSON. OK. We'll look into that.

Mr. BURGESS. Thank you.

Mr. MURPHY. Thank you.

The gentleman's time is expired. Now recognize Mr. Waxman for 5 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman.

The loan guarantee program is important for a number of reasons. It's creating jobs, it is moving us closer to a renewable energy economy, and it represents a great opportunity to develop technologies to address the clear risks of climate change.

Over the past century we have dramatically increased the amount of carbon we are emitting into our atmosphere. The scientific community has hammered home the point through report after report, warning of what will happen if we do not act to reverse this trend.

We are witnessing in our very own communities the impacts of higher sea levels and more frequent instances of flooding, drought, and intense storms. The projects that these loans are supporting, solar and wind farms, nuclear plants, grade integration, these are the energy sources of the future, and they are the most effective way to deal with the issue of climate change because they address the root of the problem, which are, of course, carbon emissions.

Mr. Davidson, how does the loan guarantee program fit into the President's climate action plan?

Mr. DAVIDSON. Thank you for that question, Mr. Chairman. We are a key part of the climate action plan. The President announced the issuance of our \$8 billion advanced fossil solicitation as part of the climate plan announcement, and we are seen as a key component of the way to both help fund energy innovation, to work with the private sector, and to help reduce carbon emissions.

Mr. WAXMAN. Can you give us an idea of the potentially transformational reductions in carbon emissions that these programs will be capable of, and what are we achieving in the projects that are already online?

Mr. DAVIDSON. Thank you for that question. The projects online have produced a great deal in our solar and wind facilities. One of the things I particularly like to remark upon is with the new nuclear facility, that is avoiding 10 million tons a year of carbon. So there may be controversy about nuclear power, but it is one of the key areas is extremely effective in reducing greenhouse gas emissions.

The other aspect I think we'd like to talk about, as you mentioned, is the jobs impact in the solar facilities, the utility-scale solar facilities, that we were involved in financing. Those created directly 7,000 jobs in the construction and operation of those facilities. And with the 5 concentrated solar facilities that we built, we've been able to track job creation in 39 separate States across the Union that have participated directly into the supply chain there.

So it's not only the funding of these projects, but it's the ripple effect for the supply chain, and that is 7,000 for the 10 we've funded. Since we've stopped funding, now that utility-scale solar is a completely bankable industry, more than 10 utility-scale solar facilities have been built, and we think the employment there is equally as large. And as you know, solar now employs over 140,000 people in this country, up from virtually nothing a decade or two ago.

Mr. WAXMAN. So these are programs that are now self-sufficient with private investment, but if we didn't have a loan guarantee program, would the private sector have moved forward without this effort on behalf of the government?

Mr. DAVIDSON. Thank you, Congressman. You never know what could have happened, but the reason Congress established this program was to provide debt financing to those projects which were meretricious, but could not attract financing from a private-sector bank. And that is why we became involved in photovoltaic solar, that's why we became involved with the nuclear industry, and that's why we're hoping to find things in the advanced fossil area can do. There are many things; carbon capture and sequestration we feel is a very interesting area, and we're looking forward towards applications in those ways.

Mr. WAXMAN. Press reports indicate that the EPA will soon announce new standards for carbon emissions from coal-fired power plants. Will the breakthroughs you are helping to fund help meet these goals?

Mr. DAVIDSON. Congressman, as you know, we don't know what those regs will be until they're issued, but to the extent part of it is how do we make coal facilities cleaner, our program is specifically set up for that, for coal operators who would like to install carbon capture and sequestration; our debt financing is available for that, or some of the newer technologies, chemical looping and things of that nature. That is what and one of the reasons the President announced in the climate action plan this \$8 billion advanced fossil solicitation.

Mr. WAXMAN. Well, Mr. Chairman, I think the DOE Loan Programs Office can continue to support break-through technologies that address the threat of climate change, and I fully support their efforts.

I yield back my time.

Mr. MURPHY. Gentleman yields back. Now go to Mr. Griffith of Virginia for 5 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman.

Let me say upfront, I am very pleased to hear you mention chemical looping, because obviously if that works, and the plans are going forward on that, we don't have any capture; we do have sequestration issues, but it eliminates the real need for capture because it comes out with just CO<sub>2</sub>. So I am very pleased to hear that that's on the agenda, support good loans being made. I know there's some risk involved.

What I'm really concerned with is to make sure that we are following the laws as it was set up. This is the first time that we've been back, as Ms. DeGette pointed out, since we had a lot of hearings on the Solyndra issue, and I'm curious, because at that time, the last time we had a meeting, the inspector general's office indicated that investigations were still ongoing.

Mr. Hass, can you advise us, are the investigations still ongoing into what happened with Solyndra, and are we expecting any—or do you know if there's any possible criminal conduct that may have taken place during this time period?

Mr. HASS. I can say that investigations are still ongoing, sir.

Mr. GRIFFITH. They are still ongoing?

Mr. HASS. Yes, sir.

Mr. GRIFFITH. All right. And I was a little vexed by comments made earlier by Mr. Waxman indicating that the hearings had shown that there was no wrongdoing. Whether or not there were ever any criminal charges that come out of this, I think there clearly was wrongdoing, and I hope that in the future we'll make sure that the law is actually followed. And I feel compelled to go through a litany of these and ask, have we learned our lessons? Are we still going down this path?

In regard to Solyndra, on December 13, 2010, DOE sends a letter to Solyndra advising Solyndra that they are in default. Section 1702(g)(4)(A) indicates, quote, "If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default." That is so that under 1702 (2)(g)(4)(B) the Attorney General can be involved in making—or taking action to make sure that the American taxpayer is protected. In the Solyndra situation that was not done.

If there are defaults, Mr. Davidson, are you all notifying the Attorney General so that the Attorney General's Office can at least be a part of the team in trying to protect the American taxpayers when we try to collect on a loan that may default?

Mr. DAVIDSON. If there is a default pursuant to the law, and we have to get DOJ involved, we do.

Mr. GRIFFITH. OK. Because that did not happen in the Solyndra situation, and they went on to do a subordination. Furthermore, in regard to subordination, section 1702(d)(3) specifically says, quote, "The obligation shall be subject"—talking about the loan—"The obligation shall be subject to the condition that the obligation is not subordinate to other financing."

It goes on in another section to say, "Superiority of Rights," in 1702(g)(2)(B), "The rights of the Secretary, with respect to any

property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.” However, the DOE at the time decided that subordination restriction in section 1702(d)(3), referring to Susan Richardson’s memo, the subordination restrictions, section 1702(d)(3), is a condition precedent to the issuance of a loan guarantee and not a continuing obligation restricting restructuring options.

Now, I believe it was wrongdoing to come up with that opinion, and, as we know, there was a memo that said, well, this is your best option, but there was never contact with the Department of Justice on making a decision to subordinate. Even though someone at Treasury e-mailed back and said, we don’t think you can do this, I believe it was wrongdoing not to consult with the Department of Justice. I believe it was wrong under the law to do a subordination in that case, and the subordination—forget the riskiness of the loan of Solyndra, the subordination cost the American taxpayers \$170 million, and I believe that was wrongdoing.

Do you believe that those lessons have been learned, or do you all think that you still have an option of subordinating a loan, notwithstanding the clear language of the statute?

Mr. Davidson.

Mr. DAVIDSON. Thank you for the question, Congressman.

Now, I realize this issue of subordination is a very important issue. It’s important to you. It’s very important to us in the Department. I can say we have absolutely no plans to subordinate any loans in our portfolio.

Mr. GRIFFITH. Well, I hope that you not only have no plans, but I hope that even in a dire circumstance, that if you need authority, you come back to Congress because it clearly is not granted in the Code section.

I’m excited about some of the things that are happening in the energy world. We have had a great resurgence in American energy. Hopefully we can find even more ways to do that, and if this loan guarantee program can move that forward, that’s great. I just want to make sure that we’re following the law, and that we are not—after having made a risky investment, and people can argue about whether that was wise or not, that when we find that somebody is in trouble, that we follow the law and we try to protect the American taxpayer at that point in time.

Mr. Chairman, I appreciate it very much, I appreciate the witnesses being here, and I yield back.

Mr. MURPHY. Gentleman yields back, and now we recognize the gentleman from Iowa Mr. Braley for 5 minutes, if he’s ready.

Mr. BRALEY. Thank you, Mr. Chairman.

I’m delighted to have the opportunity to be here with the distinguished panel we have in front of us today, and one of the things that I would like to hear a little bit more about is the response to the IG report. One of the things that we’d like to hear a little bit more about in detail is a little bit about the summary of the findings and recommendations from that report that you think have an impact on the work of the committee going forward.

Mr. DAVIDSON. Thank you, Congressman.

The IG report and the GAO report raise some very good points. We are in full agreement on them about ways we can make our

policies and procedures even better. As I mentioned, we feel that we have taken a number of steps, partly as a result of the reports.

Some of those I'd like to go into that we've taken, moved ahead on, are we've created the Risk Management Division, which was a key part of the reports, and we've hired a senior credit officer. We've also significantly staffed up that operation. We have tasked the Risk Management Division to prepare separate reports on each one of our credits. We have already been doing that as part of our portfolio management team, but now we have a separate set of eyes on every one of our credits coming out of our Risk Management Division. That began last year. They did half our portfolio. Now every year they will be analyzing all of our loans.

We have updated and strengthened the charters for our two internal oversight boards, the Project Review Committee and our Risk and Portfolio Management Committee. These are now staffed by DOE personnel, but the majority of people on that are non-LPO members. It's a separate set of eyes on all of our transactions and actively looking at our portfolio on a biweekly basis. And finally, we've developed a very robust internal electronic system to control our process and procedures and track things.

So these are all part of the recommendations, but they're also just part of our continuing interest in improving, because we're very, very focused on making sure we are really safeguarding taxpayer money. We take that extremely seriously.

Mr. BRALEY. When people use words like "internal electronic systems," it leaves a lot of us with questions about, what the hell does that really mean? So can you break that down as it relates to the changes in this risk management system in terms of what you're going to be doing differently that would lead to different outcomes than what we had before?

Mr. DAVIDSON. Yes. Thank you, Congressman, and I don't mean to be vague in what that was.

Mr. BRALEY. No, no. I'm one of those people who's just innately curious.

Mr. DAVIDSON. Yes. Thank you.

We've really just been automating our internal systems. We had a generation one. We are now on generation three, and we are planning to roll out generation four. This just allows people from throughout the organization to talk on the same platform about the same credit, so people on our origination team with our risk management team and portfolio management are fully impacting together on the same schedule.

Mr. BRALEY. And is that new system fully functional at this point?

Mr. DAVIDSON. Version three is fully functional, and we're rolling out the next version within the next few months.

Mr. BRALEY. And one of the things you also identified in your description was that separate reports on each one of your credits were going to be generated as part of this new system. Can you explain that in a little more detail?

Mr. DAVIDSON. Yes. That's not so much part of that system. That's part of the creation of our Risk Management Division and being able to fully staff up, or more fully staff up, that Risk Management Division. This has always been a goal that's been one of

the recommendations. We do extensive portfolio analysis. We have 55 people in our Portfolio Management Division, because when we make a loan, we hold those loans, and we will be monitoring those loans for the next 25 years. That's one of the reasons we're taking the time to make sure when we document our policies and procedures, we do them absolutely correctly, because these really have to stay in place to manage what we do for the next 25 years. So we take that responsibility very seriously.

I lost my train of thought there.

Mr. BRALEY. Well, let me just move on to a different question, then. When I talk to lenders and I talk to borrowers, one of the things they're always concerned about is the inordinate amount of paperwork associated with the processing of any loan these days, and sometimes the requirements don't make sense at face to the people who are being asked to provide information.

After the S&L crisis, I sold a house, bought a cheaper house, and was required to fill out an affidavit explaining why I was buying a house cheaper than the one I just sold. It didn't make a lot of intuitive sense to someone whose parents grew up in the Depression.

So as we're looking at how you're providing oversight and underwriting guidance, are you looking at ways to make sure that the oversight and the underwriting criteria make sense for the type of risk that's being underwritten?

Mr. DAVIDSON. Thank you, Congressman, for that question.

We take that very seriously. That is the whole reason we do such extensive due diligence. I think the GAO has mentioned that our due diligence is as extensive, if not more extensive, than what happens in the private sector.

Mr. BRALEY. Thank you. I'll yield back.

Mr. MURPHY. Gentleman's time has expired.

Recognize Mr. Johnson for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman, and I'd like to thank our panel for joining us today, as well. Thank you, gentlemen, for being here.

Mr. Davidson, at the time of the stimulus, the credit markets for energy projects were in rough shape. Your project finance people pay close attention to credit market conditions; is that correct?

Mr. DAVIDSON. Correct.

Mr. JOHNSON. So what is the current condition of credit markets?

Mr. DAVIDSON. I'm not an economist, so take that, what I say, with that caution in mind. But just reading the paper, credit markets have gotten better than they were certainly in 2009 and early into 2010.

Mr. JOHNSON. But, obviously, if your Department is paying close attention to those, your team knows that that improvement has occurred.

Has the availability of private financing for clean-tech projects improved since 2009?

Mr. DAVIDSON. That's a very interesting question, Congressman. Thanks for asking it.

In certain segments it has improved, but, for instance, as I've mentioned a few times, we made the first loans to the utility-scale solar industry. At that time, developers—and some of these were



very big-named developers putting hundreds of millions of dollars into projects—they could not arrange commercial bank financing. We made those loans, and then we stopped making those loans.

Mr. JOHNSON. But I'm not talking about what you did during the stimulus. We understand that. I'm talking about since 2009 through today, have those credit markets for clean-tech projects improved?

Mr. DAVIDSON. For some segments of the clean-tech market, they have. For others, it is still difficult.

Mr. JOHNSON. OK. So how does that credit market improvement change the role of the DOE loan programs and the type of projects that it supports?

Mr. DAVIDSON. Yes. Well, thank you, Congressman. I know you are concerned, as we are very concerned, that we make the loans to the right type of companies that need it, and they're not just coming to us for lower-cost financing. We take the issue of making sure that the projects we fund are ones that would find it very difficult, if not impossible, to raise financing from a commercial source.

The first alternative is always for a project to go to a commercial lender. If the project sponsor finds that is not possible, they come to us. We do not go out to anybody. We put out a solicitation, and we can only deal with applicants if they respond to a solicitation.

Mr. JOHNSON. Well, therein lies part of the concern that I have and that many of my colleagues, many of my constituents have. If a project goes out to the private sector markets, and they cannot find funding—I'm a patent holder, and I have struggled with trying to raise money for tech projects myself. And so if they go to the private markets and they can't get the money, what kind of additional due diligence does your Department do to determine that taxpayer funding should be spent on something that the credit markets say might not be a worthy project?

Mr. DAVIDSON. Thank you. That is an excellent question. It's one we spend a great deal of time thinking about.

Maybe to give some comfort is we will not look at a project unless it's brought to us by a sponsor that is committing at least 20 percent by law, but in reality it's always closer to 30 percent of real equity dollars in the project.

Mr. JOHNSON. Yes.

Mr. DAVIDSON. So someone has to come to us with a project that 20 percent at least is already equity funded, and all the other parts of the project have to be in place.

Mr. JOHNSON. OK.

Mr. DAVIDSON. For instance, we do a great deal of electricity-generation projects. There has to be an off-take agreement in place. There has to be equity in place. There has to be regulatory approval in place.

Mr. JOHNSON. Mr. Rusco, how would you respond to those questions? Has the private markets and credit markets improved, and do you believe that should change the way the DOE loan programs should work?

Mr. RUSCO. Yes. The financial markets have largely recovered from their collapse in the run-up to the recession. I do think that that should be an important consideration.

I think that there is an inherent problem with the way that the 1703 program is set up in that innovative projects that come there are required to pay their credit subsidy costs. The less viable they are in the market, the higher the risk is; therefore, the higher the credit subsidy costs are. And I'm concerned that may be a deterrent to the program actually being effective in meeting its goals.

Mr. JOHNSON. OK. I have one more question and just a short time. Do you have any loan programs that you're anticipating granting loans for this year? If so, when do you anticipate granting your next loan program?

Mr. DAVIDSON. Well, the current active solicitation is an advanced fossil. We issued that in December. The first application gate or window for that was in February, a few months ago. We received a number of applicants. We are moving those through our system. We have a part 1 and a part 2. Sometimes the part 2 system, because it involves very thorough due diligence, can take anywhere from 6 months to—in the case of the Vogtle transaction, that took over 5 years.

Mr. JOHNSON. So——

Mr. MURPHY. Gentleman's time has expired.

Mr. JOHNSON. OK. I yield back, Mr. Chairman.

Mr. MURPHY. I now recognize Mr. Tonko for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair.

I think that it's important that we set the record straight of the committee's investigation of the Solyndra loan. I was not part of the Energy and Commerce Committee at the time of the investigation, but there has been exhaustive review of the committee report and the record. And we reviewed over 300,000 pages of documents, issued multiple subpoenas, conducted over a dozen interviews and had four hearings.

The evidence clearly demonstrated that loan guarantee decisions were made on merits. The committee found no evidence that loan guarantee decisions were influenced by political contributions or political considerations. There was a robust debate within the administration about the Solyndra loan, and decisions were made that ultimately turned out to be the wrong ones. But, Mr. Chair, the committee's investigation found no evidence of wrongdoing by administration officials with regard to the Solyndra loan.

With that being said, DOE's support of the American auto industry through the Advanced Technology Vehicles Manufacturing Loan Program has resulted in a number of significant success stories. Director Davidson, as you mentioned in your testimony, DOE's support of Tesla helped to create thousands of jobs in California, and the company repaid the entire remaining balance on its loan 9 years earlier than required. Other auto manufactures like Ford have modernized factories and produced new, advanced engines with DOE's support.

I'd like to learn more today about the ATVM program and the innovative new technologies that it is helping to produce. So, Director Davidson, what is the purpose of the ATVM program?

Mr. DAVIDSON. Thank you very much, Congressman.

ATVM, the purpose of the program is to assist manufacturing for OEMs and suppliers in this country to help achieve the efficiency targets, to help boost fuel efficiency. The goal is increasing fuel effi-

ciency for lightweight vehicles, and we do that by providing support for the manufacturing facilities for car makers and component makers.

Mr. TONKO. So we're creating a better product and more in keeping with the consumer's demand?

Mr. DAVIDSON. It's a resource to help build the manufacturing capability in the United States. So for Ford, we retooled 13 facilities; Nissan, we brought in production, which had been happening in Japan, we brought it to Tennessee; and Tesla retrofitted a whole factory. That's why we think there will be real interest in the program going forward, more on the side of the suppliers, component suppliers and component manufacturers. We have been hearing a great deal from them about interest in the program since Secretary Moniz made an announcement at a supplier convention last month that the program was open for business.

Mr. TONKO. Well, in my district, and I'm certain in districts across America, congressional districts across America, the number one issue is jobs. How many jobs have you quantified to have been helped by the ATVM program? How many have we helped to create?

Mr. DAVIDSON. The number we use, and a lot of these numbers come from Ford, which is the number one recipient of the money there, is 35,000 jobs have been created or been sustained as a result of that.

Mr. TONKO. And how many—is there a cluster of States that might have seen the majority of those jobs?

Mr. DAVIDSON. The majority of it has been in California, certainly for Tesla; and then the Ford was really up in the Midwest in upstate New York, Michigan, Ohio, around there.

Mr. TONKO. Yes.

What recent steps has the Department taken to revitalize and improve the ATVM program?

Mr. DAVIDSON. Yes. Well, as I mentioned, the Secretary made an announcement that the program is back up and open for business, so there is \$16 billion remaining, really for helping companies come in. What we have been hearing is because the auto industry is doing well now, there are a number of suppliers, component suppliers, overseas suppliers, that are looking to possibly build facilities elsewhere; it might be in the United States, it might be in Mexico or Canada. And as they look at moving to the United States, we think this could be a real resource to help them make the decision to locate and bring those jobs and investment to the United States.

Mr. TONKO. And the whole move to retrofit and move into advance manufacturing, which is the current MO, I believe, by many, how has the ATVM program helped to support American manufacturing?

Mr. DAVIDSON. The whole purpose is how can we retrofit facilities, build facilities, and do the software and engineering integration. That is financeable by this program, the engineering, to really help aid in manufacturing.

Mr. TONKO. And the GAO has raised concerns about whether there is demand for ATVM loans. And in April, as you indicated, Secretary Moniz announced improvements to the ATVM program.

Can you build upon, you know, give us more information on some of those improvements?

Mr. DAVIDSON. Yes. Thank you for that.

As the chairman mentioned, not many loans have been made. I'm pleased to say there is one active loan in the portfolio now, so we're working on that one very diligently. And since the Secretary has made his announcement, and since we've been actively talking with the supplier sector and the OEMs, we are finding there is real interest.

There was a certain amount of confusion before about whether suppliers could apply, the type of things that would be required. We've been able to clarify that for them, and we are out speaking and communicating. We've had a number of meetings, and we are cautiously optimistic that there will be interest, and we will be seeing if loan applications come in within the next few months.

Mr. MURPHY. We're out of time.

Mr. TONKO. Well, I would think that as we push in innovation economy, the new technologies, groundbreaking new technologies, are essential. So I thank you for what the program is doing, and I yield back.

Thank you, Mr. Chair.

Mr. MURPHY. Thank you, Mr. Tonko.

I now recognize Mr. Harper for 5 minutes.

Mr. HARPER. Thank you, Mr. Chairman, and thank each of you for being here.

And, Mr. Davidson, I'd like to start with you. And what I would ask, I probably would ask Mr. Rusco to follow up with, on your thoughts on this question. You know, as we look at the program, try to figure out where it's going, I believe there's, what, \$16 billion left in the program, is that correct, roughly?

Mr. DAVIDSON. Congressman, there's \$16 billion on the auto side, the ATVM program.

Mr. HARPER. Sixteen billion.

Mr. DAVIDSON. In the energy program, 1703, there's \$28 billion remaining.

Mr. HARPER. OK. Great.

If you look at the existing ATVM program that you just talked about, you know, you see established automobile manufacturers such as Ford and Nissan, and you see companies that are or were startups comparatively, Tesla, Fisker and the Vehicle Production Group. So it almost appears to be two different types of projects. So can you elaborate what criteria you used to determine eligibility for the ATVM program?

Mr. DAVIDSON. Thank you, Congressman, for that question, and I'm happy to respond and talk more about ATVM.

It's not my criteria, first of all; it's the criteria that Congress provided for what we can do. And that is, it is to assist in funding a manufacturing facility, either the new build, or a rehabilitation, or a reequipping of a facility, that is either making the car, light vehicle—making the car or making the component that will be a part of an advanced vehicle.

An advanced vehicle is defined as a light vehicle that is 25 percent more fuel efficient than the comparable car was in 2005. So if you can contribute to that fuel efficiency, you are then a des-

ignated component or a designated auto supplier, and if you're building a facility or reequipping a facility, we can finance you.

Mr. HARPER. All right. You know, just from recent statements from the Secretary, it appears that maybe the program goals are changing. Can you elaborate? Are the goals changing? Are they—

Mr. DAVIDSON. Thank you for that question.

The goals aren't changing. It's really a communication to the industry, because this is really a program to assist industry. And the communication to the industry was that suppliers, component suppliers, are very welcomed and encouraged to apply.

Mr. HARPER. Right.

Mr. DAVIDSON. The suppliers were in very tough shape 4 or 5 years ago, as the whole auto industry was. Now, as we're doing very well in auto assembly for the OEMs, there seems to be real demand from the supplier base. And as I mentioned, many of the suppliers are thinking of relocating to the United States. We'd like to help them to make that decision to relocate here.

Mr. HARPER. Thank you, Mr. Davidson.

Mr. Rusco, your comments on what I've just asked Mr. Davidson as far as the ATVM loans are concerned.

Mr. RUSCO. Well, I think there is some concern about whether there is a demand out there, and part of the concern comes from our conversations with the applicants, former applicants of the original solicitations. Many of the applicants that we spoke with said that there were requirements, and the length of time it takes to get through this process are just not worth it, and they were not interested in pursuing those.

So, I don't know what's going to happen in the future, and I know that DOE is trying to rejuvenate this program, but so far there has not been a lot of actual interest. There's only one active application.

Mr. HARPER. OK. Mr. Rusco, GAO has recommended that unless DOE demonstrates demand for new ATVM loans, Congress should consider ending the program. Is that correct?

Mr. RUSCO. Yes. We think that unless there is a demand that can be demonstrated for these loans, that Congress may wish to rescind some or all of the remaining credit subsidy money and use it elsewhere.

Mr. HARPER. Mr. Davidson, are there any additional active ATVM loan applications, since the one for \$200 million reported by GAO in March of this year?

Mr. DAVIDSON. Congressman, that is the only active one in the portfolio. I'd like to mention, the Secretary made the major announcement at the supplier event. That was just a little over a month ago.

Mr. HARPER. OK.

Mr. DAVIDSON. Since that time we've been—I'm the person having meetings, having a number of very interesting meetings with people that I believe will be applicants in the relatively near term.

Mr. HARPER. But no active at this point since that time.

And so we've only got just a few seconds, but how do you do your outreach to automobile manufacturing companies? How are you contacting them to determine if they're eligible, or have interest, or create interest?

Mr. DAVIDSON. Excellent question, Congressman. And because the program has been fairly quiet for the last few years, that is an issue we are working with, and it's all the ways we try and do communication. We're trying to staff up to hire the right people, going to industry events, and we're doing things like the Secretary, communicating very publicly that we're open for applications.

Mr. HARPER. When you said you had some that were interested that you're looking at, if you're talking about, let's say, you go talk to 10 different potential companies, how many of those express interest? How many would you say on average might flatly refuse or reject that?

Mr. DAVIDSON. Well, if they're talking to me, they're already interested.

Mr. HARPER. Yes, but you have some that are not interested; you have some that are. Fair?

Mr. DAVIDSON. Correct.

Mr. HARPER. I yield back.

Mr. MURPHY. The gentleman yields back.

I recognize Ms. DeGette for a follow-up question.

Ms. DEGETTE. Thank you very much.

Mr. Chairman, I know Mr. Tonko talked about those Solyndra hearings that we had in 2011 and 2012, and he wasn't on the committee, but I was, and, in fact, I was the ranking member of the committee. We had 300,000 pages of documents, subpoenas, interviews, four hearings that went on and on, and we never did find evidence of wrongdoing. It was clear that the loan guarantee decisions were made on the merits, but as Mr. Davidson said today, the reason we have loan guarantees is because we want to encourage this type of investment, and it is, by nature, risky.

And I just also want to thank the witnesses for coming today. And I want to comment that I was pleased to see, number one, that DOE is recognizing—they're under the losses that Congress had predicted and anticipated when we passed the loan guarantee program back under the Bush administration, but also that they're implementing the recommendations of the GAO.

I look forward to hearing how that implementation goes, because I think that's important. And I yield back.

Mr. MURPHY. Thank you.

Another follow-up question. Mr. Hass, you've been quiet. We haven't been asking you a lot, but I want to ask you this: You've had an opportunity to learn extensively the testimonies from Mr. Davidson and Mr. Rusco here, but also with the GAO report and analysis of what had taken place, are you satisfied that the changes you've recommended, that GAO has recommended have been put into place at the Department of Energy for this loan program?

Mr. HASS. Well, sir, I will say that we have seen a lot of progress over the years from our evaluations, and a lot of things are still ongoing. We can't say that they are 100 percent successful, but it looks like there's a lot of movement.

Now, in response to our last reports we recently issued, the Department will be providing a matrix that will set out an exact timetable on when they expect to have all of the recommendations re-

solved, and we should be getting that soon as part of our normal process.

Mr. MURPHY. And then will you continue to follow up with them, so you'll present the matrix, and you'll continue to monitor that to see that those plans are being put into place?

Mr. HASS. Yes, sir, especially with the long nature of the loans, as you've mentioned, and the large value. They're an important part of our risk assessment we do every year. We have plans in place to conduct some additional work this year and in the coming year.

Mr. MURPHY. I thank you, and I thank the panel. And I ask unanimous consent that the Members' written opening statements be introduced into the record, and, without objection, the documents will be entered into the record.

And in conclusion, again, I thank all the witnesses, all the Members that have participated in today's hearing. I remind Members they have 10 business days to submit questions for the record, and I ask that the witnesses all agree to respond promptly to the questions.

With that, this hearing is adjourned.

[Whereupon, at 10:58 a.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]



**THE COMMITTEE ON ENERGY AND COMMERCE**  
**MEMORANDUM**

May 28, 2014

TO: Members, Subcommittee on Oversight and Investigations  
FROM: Committee Majority Staff  
RE: Hearing on "Department of Energy Oversight: Status of Loan Programs"

On Friday, May 30, 2014, at 9:15 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing entitled "Department of Energy Oversight: Status of Loan Programs." The hearing will examine recent developments and the current status of the programs managed by the Department of Energy (DOE) Loan Programs Office (LPO).

**I. WITNESSES**

- The Honorable Peter W. Davidson, Executive Director of the Loan Programs Office, Department of Energy;
- Mr. Rickey Haas, Deputy Inspector General for Audits and Inspections, Department of Energy; and,
- Mr. Frank Rusco, Director, Energy and Science Issues, U.S. Government Accountability Office.

**II. BACKGROUND**

The DOE LPO is responsible for administering DOE's loan programs. According to the DOE LPO website, the DOE loan programs "enable DOE to work with private companies and lenders to mitigate the financing risks associated with clean energy projects, and thereby encourage their development on a broader and much-needed scale."<sup>1</sup>

The LPO has approximately \$40 billion in remaining authority and has made over \$30 billion in loans and loan guarantees. The DOE LPO currently manages two programs for which it receives and reviews applications: the Section 1703 loan guarantee program and the Advanced Technology Vehicles Manufacturing (ATVM) loan program. In addition, the LPO continues to

<sup>1</sup> See <http://energy.gov/lpo/about-us>.



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monitor loans issued under the Section 1705 program. According to DOE, the LPO has eighty-three Federal employees and fifty-five full time equivalent contractors to support the office's functions, which include origination, review, loan guarantee and closing, and monitoring of loans and loan guarantees.<sup>2</sup>

Set forth below is a description of each LPO program, including its statutory authority and any existing budget authority.

#### **A. The Section 1703 Program**

Section 1703 of Title XVII of the Energy Policy Act of 2005 authorized the Secretary of DOE to make loan guarantees to companies investing in either innovative clean technologies or commercial-scale renewable energy projects.

Under Title XVII, the credit subsidy cost of the loan guarantee must be paid either by the applicant or covered by Congressional appropriation. At present, with the exception of \$169 million in appropriated credit subsidy for renewable energy and energy efficiency projects, credit subsidy costs for all remaining loan authority under Section 1703 must be paid by the loan guarantee recipients. The credit subsidy cost represents the cost of the loan to the taxpayer if the recipient of the guarantee defaults on the loan and reflects several factors, including the cash flows of the loan recipient; the rate of recovery the government expects from the assets pledged as security for the loan; and the risk of default.

DOE has finalized two loan guarantees totaling \$6.1 billion under the Section 1703 program. Both guarantees relate to the Vogtle nuclear generation facility in Georgia. One guarantee was issued to Georgia Power Company for \$3.462 billion and the other to Oglethorpe Power Corporation for \$3.057 billion. Before the closing of the Vogtle loan guarantees, the DOE LPO had not issued a loan or loan guarantee under any program since September 2011.

Currently, DOE has \$23.7 billion in existing loan guarantee authority. That authority is allocated among the following programs: \$8 billion in loan guarantee authority for Advanced Fossil Energy (currently accepting applications); \$1.5 billion in loan guarantee authority and \$169 million in credit subsidy for Renewable Energy & Energy Efficiency; \$2 billion in loan guarantee authority for mixed use projects (i.e., any eligible technology under Section 1703); \$12.2 billion in loan guarantee authority for nuclear generation and front end nuclear. While the Energy Policy Act requires that loan guarantee recipient pay a credit subsidy cost at closing, the 2011 Continuing Resolution provided \$169 million in appropriated credit subsidy available for renewable energy and energy efficiency projects. In addition, two conditional commitments currently are pending: a \$2 billion guarantee for a front-end nuclear generation program operated by AREVA and a \$1.8 billion guarantee to Municipal Electric Authority of Georgia for the

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<sup>2</sup> The number of current Federal employees in the LPO is equivalent to the number employed at the height of the American Reinvestment and Recovery Act, or stimulus, in 2011 when the LPO was reviewing Section 1705 loan guarantee applications. At that time, DOE informed Committee staff that the LPO had ninety Federal employees.

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Vogtle facility. As of January 2013, nine loan guarantee applications were in the due diligence stage, and twenty-seven were considered “inactive” by the LPO.<sup>3</sup>

The only active loan guarantee solicitation under the Section 1703 program is the \$8 billion Advanced Fossil Energy Projects Loan Guarantee Solicitation. This solicitation was issued in December 2013. On April 16, 2014, DOE issued a draft Renewable Energy Projects Loan Guarantee Solicitation for public comment.

#### **B. The ATVM Program**

The ATVM program was authorized in 2007 through the Energy Independence Security Act (EISA) of 2007, which authorized \$25 billion in subsidized loans. In 2009, Congress appropriated \$7.5 billion to cover the subsidy costs for the loans, meaning that ATVM loan recipients do not pay these costs.

The DOE LPO has issued six loans under the ATVM program: Fisker, \$529 million; Ford Motor Company, \$5.9 billion; Nissan North America, \$1.5 billion; Tesla, \$465 million; and The Vehicle Production Group LLC for \$50 million. Due to financial problems at Fisker, DOE auctioned the loan note prior to the company filing for bankruptcy. At the time the loan was sold for \$25 million, DOE had disbursed \$192 million of the loan and recovered \$53 million from the company, resulting in a loss of \$114 million. The Vehicle Production Group went bankrupt as well; at the time the company filed for bankruptcy, DOE had disbursed \$49.48 million of the loan and recovered approximately \$8 million, resulting in a \$41 million loss. Of the remaining loan recipients, Tesla repaid its entire loan in May 2013, nine years ahead of schedule.

Currently, DOE has \$16.6 billion in remaining loan authority under the ATVM program and \$4.2 billion available in credit subsidy appropriations. The ATVM program accepts applications on a rolling basis. In a March 2013 report, the U.S. Government Accountability Office (GAO) stated that the DOE LPO “was not actively considering any applications” for the remaining ATVM funding.<sup>4</sup> GAO also reported that manufacturers and potential ATVM applicants had informed the GAO that the “costs of participating [in the ATVM program] outweigh the benefits.”<sup>5</sup> Some of the costs of the program include its technical and financial eligibility requirements and the application and review processes. According to the GAO, DOE officials stated that the department was “not likely to use the remaining ATVM loan authority given the current eligibility requirements.”<sup>6</sup>

Since the March 2013 GAO report, DOE has received one additional ATVM application for \$200 million that, as of February 2014, was in due diligence review.<sup>7</sup> In a report issued last

<sup>3</sup> See GAO, *Department of Energy: Status of Loan Programs*, GAO 13-331R (Washington, DC: Mar. 2013) at 17, available at <http://www.gao.gov/assets/660/653064.pdf>.

<sup>4</sup> GAO, *Department of Energy: Status of Loan Programs*, GAO 13-331R (Washington, DC: Mar. 2013) at 3, available at <http://www.gao.gov/assets/660/653064.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See GAO, *2014 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits*, GAO-14-343SP (Washington, DC: April 2014) at 109, available at <http://www.gao.gov/assets/670/662327.pdf>.

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month, GAO stated that DOE had conducted outreach to potential ATVM applicants and that DOE reported receiving “several expressions of interest.”<sup>8</sup> Even so, GAO stated in an April 2014 report that Congress “may wish to consider rescinding all or part of the remaining \$4.2 billion in credit subsidy appropriations.” DOE objected to DOE’s recommendation, stating that its “new outreach efforts . . . will increase awareness and interest in the program and lead to additional applications in 2014.”<sup>9</sup>

### C. The Section 1705 Program

In 2009, the American Reinvestment and Recovery Act (ARRA or stimulus) appropriated approximately \$6 billion in funding to pay for the credit subsidy costs of the DOE loan guarantees for certain renewable energy, electric transmission, and leading edge biofuels systems. The DOE Loan Guarantees that were eligible for stimulus funding for their credit subsidy costs are commonly referred to as “Section 1705” loan guarantees. The 1705 program expired on September 30, 2011.

Under this program, DOE closed thirty-one Section 1705 loan guarantees for twenty-eight projects, totaling \$15.7 billion. Six of these projects are no longer active because the applicant either withdrew prior to drawing loan guarantee funds (AES ES Westover LLC, Poet Project Liberty, LLC); the funding was deobligated prior to the recipient drawing funds (Prosun Project Company, LLC known as Project AMP/Photon and Solopower, Inc.) or the project defaulted or went bankrupt (Abound Manufacturing Solar, LLC, and Solyndra, Inc.).

After the Section 1705 program’s expiration in September 2011, the LPO continues to monitor the loan guarantee portfolio’s performance.

The GAO issued a report this month finding that DOE has not “fully developed or consistently adhered to loan monitoring policies for its loan programs,” including the Section 1703, Section 1705, and ATVM programs.<sup>10</sup> In those cases where GAO found that DOE had adhered inconsistently or not at all to its policies, GAO cited the fact that the LPO was “still developing its staffing, management and reporting software, and policies.”<sup>11</sup> The DOE Inspector General also issued an audit report on May 7, 2014, reviewing the LPO.<sup>12</sup> The IG’s report focused on the extent to which the LPO had implemented the recommendations set forth in a January 2012 report by Herbert Allison, which was requested by White House Chief of Staff

<sup>8</sup> *Id.* at 110.

<sup>9</sup> *Id.* See also Letter from Peter W. Davidson, Executive Director, Loan Programs Office, to Ann Wilson, Senior Vice President, Motor & Equipment Manufacturers Association, (Apr. 2, 2014), available at <http://energy.gov/sites/prod/files/2014/04/f14/ATVM%20Response%20to%20MEMA.pdf>.

<sup>10</sup> GAO, *DOE Loan Programs: DOE Should Fully Develop Its Loan Monitoring Function and Evaluate Its Effectiveness*, GAO-14-367 (Washington, DC: May 2014) at 5.

<sup>11</sup> *Id.*

<sup>12</sup> See DOE OIG, *Audit Report on “Implementation of Recommendations from the January 2012 Independent Consultant’s Review of the Department of Energy Loan and Loan Guarantee Portfolio*, DOE/IG-0909 (Washington, DC: May 2014) available at <http://energy.gov/sites/prod/files/2014/05/f15/DOE-IG-0909.pdf>.

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William Daley.<sup>13</sup> The IG found that the LPO had addressed four of the report's twelve recommendations and had "initiated actions" to complete the remaining eight recommendations. The IG also noted that the LPO had been "generally responsive" to the Allison report's recommendations, but also identified additional areas for improvement, including finalizing policies and procedures; adopting a formal adjudication process for resolving "differences of opinion between divisions" in the LPO; and addressing potential conflicts of interest within the LPO Risk Committee.<sup>14</sup>

### III. ISSUES

The following issues may be examined at the hearing:

- What has DOE done to improve management and oversight of its loan portfolio?
- What more should be done to improve program management?
- Can DOE sustain effective program management and oversight?
- What is the status of DOE's recent efforts to attract new loan applicants?

### IV. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Peter Spencer or Karen Christian of the Committee staff at (202) 225-2927.

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<sup>13</sup> See Herbert Allison, *Report of the Independent Consultant's Review with Respect to the Department of Energy Loan and Loan Guarantee Portfolio* (Washington, DC: January 31, 2012) available at [http://www.whitehouse.gov/sites/default/files/docs/report\\_on\\_doe\\_loan\\_and\\_guarantee\\_portfolio.pdf](http://www.whitehouse.gov/sites/default/files/docs/report_on_doe_loan_and_guarantee_portfolio.pdf).

<sup>14</sup> *Id.* at 5. The report noted that the LPO accepted the IG's recommendation with respect to potential conflicts of interest and changed the membership of the Risk Committee.

FRED UPTON, MICHIGAN  
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA  
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (201) 225-2827  
Minority (202) 225-3841

June 25, 2014

The Honorable Peter W. Davidson  
Executive Director  
Loan Program Office  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Dear Mr. Davidson:

Thank you for appearing before the Subcommittee on Oversight and Investigations on Friday, May 30, 2014, to testify at the hearing entitled "Department of Energy Oversight: Status of Loan Programs."

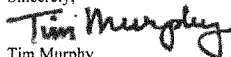
Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Wednesday, July 9, 2014. Your responses should be mailed to Brittany Havens, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to [brittany.havens@mail.house.gov](mailto:brittany.havens@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations

cc: Diana DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Attachments



**Department of Energy**  
Washington, DC 20585

August 25, 2014

The Honorable Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
U. S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

On May 30, 2014, Peter W. Davidson, Executive Director, Loan Program Office, testified regarding "Department of Energy Oversight: Status of Loan Programs."

Enclosed are the answers to 13 questions submitted by you and Representative Gene Green for the hearing record.

Also enclosed are 4 Inserts that were requested by you and Representatives Marsha Blackburn, Michael C. Burgess, and Gene Green to complete the hearing record.

If we can be of further assistance, please have your staff contact our Congressional Hearing Coordinator, Lillian Owen, at (202) 586-2031.

Sincerely,

A handwritten signature in black ink, reading "Christopher E. Davis". The signature is fluid and cursive, with the first name being the most prominent.

Christopher E. Davis  
Principal Deputy Assistant Secretary  
for Congressional Affairs  
Congressional and Intergovernmental Affairs

Enclosures

cc: The Honorable Diana DeGette, Ranking Member

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

- Q1. What is the estimated cost of the 5 defaults and what does that represent as a percentage of the \$5.2 billion in credit subsidy appropriations that has been used.
- A1. The current expected loss of the five defaults is \$779 million. Overall, losses to date represent approximately 2 percent of the entire portfolio.
- Q2. DOE has had loans and guarantees since 2009 and most of its \$30 billion portfolio has been made by 2011. DOE plans to expand that portfolio significantly, however, according to concerns expressed in the recent GAO report, DOE still does not have a fully-developed organization structure or assurance that it is completing critical loan monitoring functions. Why has it taken so long to establish a complete monitoring program and when will DOE complete the actions recommended by GAO?
- A2. LPO's process documents are continually being reviewed and updated to reflect best practices, lessons learned, and new approaches, both from industry and from within the government lending sphere. We agree with the GAO report that we need to improve the documentation of these policies and procedures and we are currently working on that effort as noted in the GAO report.
- These policies are complex and we want to ensure that they are documented appropriately so that they can inform the operations of the LPO moving forward. The LPO plans to complete the actions recommended by GAO this calendar year.
- Q3. According to information provided to staff, the Loan Program Office has 83 federal staffers. At the height of the stimulus spending, in 2011, it had about 90 employees. It appears that you have roughly the same number of employees as DOE had when processing stimulus applications. Please describe how the employee functions have change as the office transitioned from *(sic)* reviewing and approving the project finance deals to monitor the portfolio?

- A3. The Department takes its responsibility to the American taxpayer very seriously. That is why we appreciate the work of the Independent Consultant, the GAO, and the IG and use their reports to continuously improve our program management and risk analysis. These reports all recommended filling key positions and expanding the risk and portfolio management functions of the LPO.

As a result, the Department has hired a number of experienced professionals across the organization including a new Executive Director, a Director of Risk Management, a permanent Chief Counsel, and several new senior Portfolio Managers.

The program has the ability to adjust the level of outside contracted services that it uses in its work, but a core staff of Federal employees is necessary for continuity and appropriate oversight of taxpayer funds. Moving forward, the program will continue its ongoing efforts to recruit and expand its staff for both the portfolio monitoring and risk management functions.

- Q4. Mr. Davidson: In DOE's FY 2015 budget presents the program's administrative operations at \$42 million. Yet the budget request for the Loan Program is \$7 million dollars, because of offsetting receipts, which appear to be from program participants.
- a. Explain the source of these receipts and how they are calculated?
  - b. What happens to offsetting receipts once DOE stops issuing new loans and loan guarantees?
  - c. What future additional funding may become necessary for Congress to consider if future receipts decline?
- A4. Title XVII of the Energy Policy Act of 2005 requires the Secretary of Energy to charge and collect fees for loan guarantees issued pursuant to this authority sufficient to cover applicable administrative expenses. To comply with this statutory



requirement, the LPO publishes the applicable fees in its solicitations to inform potential applicants.

These fees include application fees, closing fees, and annual portfolio maintenance fees. As a result, the Department only collects application and closing fees if it is receiving new applications and issuing loan guarantees. However, the annual portfolio maintenance fees are collected on loan guarantees in the existing portfolio for the full tenor of those obligations. The Department will include any future funding requests in its annual budget request to Congress necessary to maintain the functions of the LPO and protect taxpayer interests.

- Q5. What is the number and role of outside contractors in reviewing applications or monitoring the portfolio?
- a. Are contractors subject to the Department's policies and procedures?
  - b. Has DOE completed any kind of analysis or validation of the reports being provided by outside contractors to determine if they are accurate, thorough, or useful?
- A5. The LPO utilizes a variety of outside consultants to provide expert input on loan underwriting and portfolio management. This includes outside legal counsel, independent engineers, financial advisors, and others. Numerous audit reports, including the Independent Consultant's report, have recognized the importance of utilizing these outside consultants to gain independent views and expert analysis on transactions.

While LPO benefits from this expert analysis, all decisions related to loan underwriting, Issuing loan guarantees, and portfolio management are made by LPO staff, who are subject to the Department's policies and procedures.

- Q6. Why did DOE choose to sell the defaulted notes for Fisker and VPG when it did? Could DOE have recouped more money if it had instead foreclosed on the loan and sold Fisker?
- A6. The Department chose to sell the Fisker and VPG notes rather than pursue alternative remedies such as foreclosure, because DOE determined, after close consultation with its outside financial advisor, and pursuant to the procedures set forth in the Debt Collection Improvement Act, that selling the notes at auctions offered the best possible recoveries for the taxpayer.
- Q7. At present, DOE has about \$12 billion allotted to additional advanced nuclear loan guarantees. What are DOE's plans for using that remaining authority?
- a. You mention in your testimony that supporting Vogtle is facilitating the broader deployment of new advanced nuclear reactors in the United States. Do you have pending nuclear related loan applications?
  - b. What analyses about the prospects for new nuclear development in the United States have you taken into account for your planning concerning the nuclear related loans?
- A7. The Department is evaluating whether to issue a future solicitation to allow new applications for either all, or a portion, of the remaining nuclear energy loan guarantee authority. However, we continue to have pending applications from the prior nuclear solicitations issued in 2008. Should any of these applicants signal their desire and ability to resume loan underwriting, LPO could restart due diligence as these projects remain eligible under the prior solicitation.

Nuclear power continues to have an important role to play in our nation's clean energy future. Currently, there are a number of projects and reactor designs pending regulatory approval from the Nuclear Regulatory Commission (NRC). As one of the few carbon-free sources of energy available for deployment today, this loan guarantee authority could enable our nation to increase its capacity for safe, secure nuclear power.

## QUESTIONS FROM REPRESENTATIVE GENE GREEN

- Q1. In the most recent solicitation released by your office for Advanced Fossil Energy projects, an "eligible project" could apply as an "Advanced Resource Development" project. These projects include "Projects that employ new or significantly improved technologies to economically develop, recover, and produce traditional fossil energy resources with reduced greenhouse gas emissions." Just for clarification, an eligible project could involve either hydraulic fracturing as a technology or natural gas as a traditional resource, correct?
- A1. Yes. Hydraulic fracturing and natural gas development are eligible fossil energy activities under the Advanced Fossil Energy Projects Loan Guarantee Solicitation. Individual applications are evaluated on a case-by-case basis to ensure they meet all relevant eligibility criteria. Under the Section 1703 loan guarantee program, eligible projects must use an innovative technology, reduce, avoid, or sequester greenhouse gas emissions, be located in the United States, and have a reasonable prospect of repaying the loan and interest.
- Q2. Under the ATVM program, Secretary Moniz has stated the Department of Energy would specifically reach out to component manufacturers. Has DOE reached out to similar technology companies in the hydraulic fracturing sector?
- A2. The Loan Programs Office has conducted extensive outreach to educate potential applicants following the release of the Advanced Fossil Energy Projects Loan Guarantee Solicitation in December 2013. This has included presentations at industry conferences and events covering the hydraulic fracturing industry.
- Q3. Finally, in Texas, our refining industry produces petroleum coke. In my district of East Harris County, we have lots of it. Thus far, we have exported that product to other countries. Would the Loan Program consider a project that included petroleum coke as an "eligible project," if it were to receive an application? Why or why not?
- A3. Yes. Petroleum coke is an eligible fossil energy resource under the Advanced Fossil Energy Projects Loan Guarantee Solicitation. Individual applications are evaluated on

a case-by-case basis to ensure they meet all relevant eligibility criteria. Under the Section 1703 loan guarantee program, eligible projects must use an innovative technology, reduce, avoid, or sequester greenhouse gas emissions, be located in the United States, and have a reasonable prospect of repaying the loan and interest.

- Q4. I also want to ask about the 'Areas of Improvement' mentioned in the Independent Review conducted at the request of the White House. The Inspector General (IG) released their most recent audit report in May 2014. In that report, the IG stated that the Department of Energy had made significant progress on four of the twelve recommendations made by the Independent Review. However, the Department of Energy took issue with this and said that DOE had made significant progress on six of the twelve recommendations. Can you explain why DOE believed there was a discrepancy?
- A4. The Office of Inspector General's (OIG) report shows that the Loan Programs Office has taken the independent consultant's (the "Allison") report seriously and addressed its recommendations. The LPO concurred with the OIG's assessment that it has completed actions to address four of the Allison report's twelve recommendations and has initiated actions in response to the remaining eight recommendations. In addition, it is the LPO's view that two additional recommendations have been fully implemented, and that the implementation of one the recommendations always will be, by its very nature, ongoing. Overall, the OIG found that in cases where the Department had not implemented a specific recommendation from the Allison report, it considered the recommendations and addressed the issue with a different approach. Further, the Department provided strong rationales for pursuing the alternative actions and the OIG did not object.
- Q5. In this committee, we've heard testimony from Secretary Moniz and others about the FY2015 budget request. DOE has been under constant budgetary pressure since FY2011 and has had to continue operations under these constraints. Many of the risks

cited by the IG and GAO were related to staffing and rulemaking. Can you give us a sense of what effects budgetary constraints and hiring freezes have had on implementation and staffing issues in the Loan Programs Office?

- A5. The Department takes its responsibility to the American taxpayer very seriously. That is why we appreciate the work of the Independent Consultant, the GAO, and the IG and use their reports to continuously improve our program management and risk analysis. These reports all recommended filling key positions and expanding the risk and portfolio management functions of the LPO.

As a result, the Department has hired a number of experienced professionals across the organization including a new Executive Director, a Director of Risk Management, a permanent Chief Counsel, and several new senior Portfolio Managers.

Moving forward, the program will continue its ongoing efforts to recruit and expand its staff for both the portfolio monitoring and risk management functions. However, these efforts will be affected by the program's available administrative budget and ability to hire experienced and professional staff.

- Q6. A lot has been made of DOE's alleged mismanagement of the Loan Program. However, according to GAO, participants from industry stated that their main concerns were not mismanagement but burdensome applications and lengthy review timeframes. As you know, businesses looking to invest in new technology or infrastructure need investment certainty. Industry builds in extra time because they know that dealing with the government will not be an expedited process. But in some cases, even the extra time isn't enough to meet development requirements. Do you believe this uncertainty has led businesses to shy away from the loan guarantee program because DOE is too slow or risk averse? What has your office done to provide more certainty to applicants?

- A6. The Department of Energy takes its responsibility to the American taxpayer very seriously. As a result, the LPO underwrites and structures its loans and loan guarantees to protect the interests of taxpayers and maximize prospects for full repayment. Before making a loan or loan guarantee, the LPO conducts extensive due diligence on the application, with rigorous financial, technical, legal and market analysis by DOE's professional staff, including qualified engineers, financial experts, and outside advisors.

At the same time, the Loan Programs Office is committed to being responsive to applicants and ensuring timely processing of all applications. As a result, we have adopted a number of improvements including launching an online application portal, streamlining the application process, adding transparency to the approval process, clarifying authorities, and developing a state-of-the-art workflow management system.

COMMITTEE: HOUSE ENERGY AND COMMERCE  
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While the Department doesn't comment on the status of pending active loan guarantee applications in order to protect the confidentiality of its applicants, the Loan Programs Office (LPO) currently has several applicants that are undergoing due diligence.



Mr. Davidson. The Secretary and I meet on a quarterly basis.

Mr. Murphy. Two years ago this committee asked the DOE to submit a list of projects that applied for loan guarantees. Can you tell me how many of the active loan guarantee applications are still in the queue?

Mr. Davidson. We have been providing that to certain areas of Congress. I'm not sure it did this committee, but we're happy to do that.

Mr. Murphy. Do you have any idea how many are still in the queue, by any chance?

Mr. Davidson. Our total applicants?

Mr. Murphy. Yes.

Mr. Davidson. We have a number of applicants still in the queue. We have -- as we shut down, as the 1705 program ended, all those that were still in the queue were allowed to proceed if they had been active. So of that, we have a number of active applications. We don't disclose the number exact, but there are a handful of active applications. On the renewable side, there are a handful of active applications from earlier fossil solicitations we did in 2008.

Mr. Murphy. Can you describe the nature of those fossil solicitations in general?

Mr. Davidson. Well, Mr. Chairman, if I can go back, I'll go back. As I know many of you on the committee are aware, we did a

solicitation in 2008 which was really a coal gasification. It was a very specific solicitation. At that time a number of applications came in, I think 10 or so at the time. Some of those have remained active. And are still in the queue, and are still being pursued, and are in due diligence. Many of those projects, the sponsors withdrew the projects primarily because of what's happened with natural gas. And the decrease in the cost of natural gas has made those products not -- those projects not economically viable, so the developers have withdrawn.

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Mr. Green. Thank you, Mr. Chairman.

Mr. Davidson, just off the top of my head, why are the number of applications privileged, that you can't share with a congressional committee?

Mr. Davidson. The -- I believe it's our DOE policy. We just -- we state the number of applicants who have -- the specific number of applicants we try not to release because there are competitive -- potential competitive issues involved. We try and really safeguard the privacy information of those people that apply, trade secrets, those type issues, and the feeling is if people know how many applied for a certain type of solicitation, it could determine if there are competitors applying or things of that nature.

Mr. Green. I understand that, and I -- you know, obviously I want business records and proprietary information, but it seems like

a public loan would be -- at least the information for the number -- I'm not talking about the names even, but that would be helpful, of someone who's applied, but that's separate from my line of questions. I just didn't know they were -- even the number of applications, I never had somebody say we can't tell you how many we have. That just -- it just bothers me as a Member of Congress.

In the most recent solicitations released by your office for advanced fossil energy projects, an eligible project could apply as an advanced resource development project. These projects include projects that employ new or significantly improved technologies to economically develop and recover and produce traditional fossil energy resources with reduced greenhouse gas emissions. Just for clarification, an eligible project could involve either hydraulic fracking as a technology or natural gas as a traditional resource; is that correct?

Mr. Davidson. Correct.

Mr. Green. Because coming from Texas, I also know we have some issues that we need to do. If we want to continue the successful development of natural gas, we need to use technology, whether it's private sector or public sector, to be able to safely get that product out of the ground and as clean as we can do. Is the Department of Energy open to something like that as a grant project?

Mr. Davidson. Yeah. Thank you, Congressman, for that question.

First of all, on the prior point, let me just say we're happy

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While the Department doesn't comment on the status of pending active loan guarantee applications in order to protect the confidentiality of its applicants, the Loan Programs Office (LPO) currently has several applicants that are undergoing due diligence.

Mrs. Blackburn. So you do have a total of 33 that are out there, and you're actively monitoring those. And the amount of those loans, is it about \$28 billion?

Mr. Davidson. It's a little closer to 30 billion now.

Mrs. Blackburn. Okay. So it's closer to 30 billion.

And how much of your total loan funds have been disbursed?

Mr. Davidson. Well --

Mrs. Blackburn. By percentage.

Mr. Davidson. We have -- well, the short answer is we have approximately 26 million in the 1703 authorization still available and 16 billion in the ATVM available.

Mrs. Blackburn. Okay.

Mr. Davidson. So, a little over \$40 billion still remaining.

Mrs. Blackburn. Okay. All righty. And let me ask you this. What I'd like to know, since we've had so many questions about due diligence and how the program goes about its due diligence, describe for me how the LPO actually monitors that portfolio.

Mr. Davidson. Thank you, Congresswoman, for that. First let me say, as you mentioned, I had been in the private sector for a number of years. I was in the banking business for a while, so -- and I've been now in government for the last 5 years, State government and now here, and I just would like to reassure you, from what I've seen in the private sector and what I've seen at the LPO in my 1 year there, I think our processes, the way we go through our due diligence, the way we involve both our staff and outside

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The Department takes its responsibility to protect taxpayers' interests very seriously. All applications must undergo a rigorous due diligence process to ensure that there is a reasonable prospect of repayment. We also have strong portfolio management practices after the loan is approved to further safeguard taxpayers from the risk of a company being unable to meet its obligations.

Specifically, the Department's Loan Programs Office (LPO) has improved, and will continue to improve, processes and systems for proactive monitoring, loan administration, compliance, and reporting, all of which contribute to the Department's comprehensive early warning system. The Program monitors market, regulatory, and counterparty risks that can affect credit performance and develops periodic reports for each transaction which provides an in-depth analysis of the risks.

As a result of LPO's rigorous due diligence and robust project monitoring, the Department's overall loan portfolio is performing very well. Currently, the LPO manages a diverse portfolio of approximately \$30 billion in loans, loan guarantees, and commitments covering more than 30 projects nationwide. These projects include one of the world's largest wind farms; several of the world's largest solar generation and thermal energy storage systems; and more than a dozen new or

retooled auto manufacturing plants across the country. Losses to date represent approximately 2 percent of the overall loan portfolio.

RPTS ZAMORA

DCMN HERZFELD

[10:18 a.m.]

Mr. Davidson. Thank you for that question. I'm very confident that is not occurring now. And I'm currently -- as one of the missions I had when I came in, as I mentioned, I had a real business background, and I think it's very important that you be responsive to applicants. And I think that was an issue we had before. We now are trying to move very quickly to be responsive to all those in our pipeline and all future applicants. We are very focused on quickly turning around part 1s, letting applicants know if they will move into part 2 or will they be out of the process.

Dr. Burgess. There's a semiannual report to Congress from April 1, 2012, from the Office of Inspector General from the Department of the Treasury. In that report, on the Department of Treasury's inspector general's consultation on the Solyndra loan guarantee, Department of Treasury pledged to work with Department of Energy to define the circumstances that constitute a deviation from the material financial terms and conditions of the loan guarantee and Treasury's consultative role.

So has the Department of Energy reached a full understanding with Treasury so that these definitions are now established, and a plan for cooperation and respective roles formulated and made public?



Mr. Davidson. Congressman, I have to say I'm not familiar with that issue, so if it's okay with you, I'll research and get back to you on that.

Dr. Burgess. So do you and Treasury talk?

Mr. Davidson. We have a very robust interagency process. Prior to our loans, we meet with OMB to discuss our deals, and Treasury is invited to that meeting.

Dr. Burgess. With all due respect, the information that this committee and the committee staff uncovered during the Solyndra investigation, it really didn't seem that there was a robust relationship between Department of Treasury and Department of Energy, and really that's what led to some of the concerns that are outlined in this report.

I'm quoting here: "We found that Treasury did perform a consultation on the terms and conditions of the Solyndra loan guarantee. However, whether that consultation met the intent of applicable law and regulation is not clear because Treasury's consultative role was not sufficiently defined."

Have we moved past that point?

Mr. Davidson. Congressman, I can't speak to the time before I was here which that report indicates, but I'm very pleased now with the relationship we have on an interagency basis with both Treasury and the Office of Management and Budget. We meet with them regularly. They are aware of our portfolio.

Dr. Burgess. I would like for you for the record to go back

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The Loan Programs Office (LPO) consults routinely with U.S. Treasury on individual transactions, portfolio management, and policy matters related to the terms and conditions of loans that are backed by a Department of Energy - issued loan guarantee, consistent with Title XVII and the recommendations of the U.S. Treasury's Office of Inspector General Report (OIG-12-048). This relationship is governed by a Memorandum of Understanding (MOU) that was signed by the Department of Energy and Treasury in December 2012.

FRED UPTON, MICHIGAN  
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA  
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
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Majority (202) 225-2827  
Minority (202) 225-3841

June 25, 2014

Mr. Rickey R. Hass  
Deputy Inspector General  
Audits and Inspections  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Dear Mr. Hass:

Thank you for appearing before the Subcommittee on Oversight and Investigations on Friday, May 30, 2014, to testify at the hearing entitled "Department of Energy Oversight: Status of Loan Programs."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Wednesday, July 9, 2014. Your responses should be mailed to Brittany Havens, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to [brittany.havens@mail.house.gov](mailto:brittany.havens@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations

cc: Diana DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Attachment



**Department of Energy**  
Washington, DC 20585

July 8, 2014

The Honorable Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515-6115

Dear Mr. Chairman:

This is in response to your letter, dated June 25, 2014, concerning the Subcommittee on Oversight and Investigations' May 30, 2014, hearing entitled, "*Department of Energy Oversight: Status of Loan Programs.*" Enclosed are answers to the Questions for the Record posed in the enclosure to your letter.

A copy of your letter was sent to Ranking Member Diana DeGette so we are sending a copy of our response to her as well.

Please do not hesitate to contact me if I may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Friedman", is written over a horizontal line.

Gregory H. Friedman  
Inspector General

Enclosure

cc: The Honorable Diana DeGette  
Ranking Member  
Subcommittee on Oversight and Investigations

The Honorable Gene Green:

1. The IG Report stated that "recommendations made by the Office of Inspector General and the Government Accountability Office are statutorily requested to be tracked and implemented" whereas Independent Reviews are not. Going back to the four recommendations on which DOE has made significant progress, was there any overlap between earlier IG recommendations and the Independent Review recommendations?

For the four recommendations that the Office of Inspector General considered completed – provide long-term funding, fill key management positions, establish and effectively communicate clear management goals, and engage in long-range strategic planning – we did identify some overlap. In particular, our audit report on *Loan Guarantees for Innovative Energy Technologies*, (DOE/IG-0777, September 2007) concluded that there were a number of steps that should have been taken to foster the success of the Loan Guarantee Program which included the need for capable and proficient staff. The report indicated that staffing, with the right skill sets and relevant experience, should have been the first priority in the establishment of the new loan guarantee office.

2. Did the Independent Review shed new light on anything the IG hadn't already covered?

The Independent Review identified areas to enhance the future management of the program relating to long-term funding, public reporting, the structure of internal committees, and the potential for an external advisory board that had not been incorporated in prior OIG work. We thought that these were "best practices" that had merit.

FRED UPTON, MICHIGAN  
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA  
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (2013 226-2927)  
Minority (2013 226-3841)

June 25, 2014

Mr. Frank Rusco  
Director  
Energy and Science Issues  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Mr. Rusco:

Thank you for appearing before the Subcommittee on Oversight and Investigations on Friday, May 30, 2014, to testify at the hearing entitled "Department of Energy Oversight: Status of Loan Programs."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Wednesday, July 9, 2014. Your responses should be mailed to Brittany Havens, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to [brittany.havens@mail.house.gov](mailto:brittany.havens@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations

cc: Diana DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Attachment



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.  
Washington, DC 20548

July 8, 2014

The Honorable Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
United States House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Murphy:

Thank you for the opportunity to testify before the Subcommittee on Oversight and Investigations on Friday May 30, 2014, at the hearing entitled "Department of Energy Oversight: Status of Loan Programs." The attached enclosure contains GAO's response to the subcommittee's questions for the record. If you have questions, you may contact me on (202) 512-3841 or [RuscoF@gao.gov](mailto:RuscoF@gao.gov).

Sincerely yours,

A handwritten signature in cursive script that reads "Frank Rusco".

Frank Rusco  
Director  
Natural Resources and Environment

Enclosure

**The Honorable Gene Green**

**1. The IG Report stated that “recommendations made by the Office of Inspector General and the Government Accountability Office are statutorily requested to be tracked and implemented” whereas Independent Reviews are not. Going back to the four recommendations on which DOE has made significant progress, was there any overlap between earlier GAO recommendations and the Independent Review recommendations?**

Some GAO recommendations have addressed related areas to three of the four Independent Consultant’s Review recommendations from January 2012 deemed by the IG to be complete, including providing long-term funding, filling staff positions, and establishing clear goals. In those cases, while the same general areas were touched upon, the Independent Review and GAO recommendations focused on different aspects of the programs.

In regards to long-term funding, the Independent Review recommended that DOE assure adequate funding to manage and oversee the programs on a long-term basis. In July 2008, GAO had recommended that the Loan Guarantee Program improve the full tracking of administrative costs. The two recommendations do not directly overlap, but are related in that better tracking and estimates allow for better planning and better budget requests, which are needed to obtain adequate funds.

In regards to staffing, the Independent Review recommended that DOE fill key positions in Loan Programs Office management with experienced professionals, while GAO had recommended in February 2011 that DOE accelerate efforts to engage sufficient engineering expertise in the Advanced Technology Vehicles Manufacturing (ATVM) loan program. Additionally, subsequent to the Independent Review, GAO’s May 2014 report recommended that the Loan Programs Office fully develop its organizational structure, in part, by staffing key monitoring positions. This most recent recommendation was related to staff vacancies in different levels of the Loan Programs Office’s organization than the Independent Review, as the Executive Director and Division Director positions mentioned in the Independent Review had been filled.

In regards to establishing clear goals, the Independent Review recommended DOE establish and effectively communicate clear goals for management, focused specifically on clarifying the meaning of the statutory goal of “reasonable prospect of repayment.” GAO made broader recommendations, to further develop and define performance measures to monitor program efficiency, effectiveness, and outcomes in July 2008; as well as to develop performance goals that reflect the full range of policy goals and activities of the program in July 2010. The GAO findings and recommendations focused more on achieving the goals of supporting innovative energy technology and avoiding, reducing, or sequestering greenhouse gas emissions.

In the case of the fourth complete Independent Review recommendation, engaging in long-range strategic planning, GAO did not have a related recommendation.

**2. Did the Independent Review shed new light on anything GAO hadn’t already covered?**

Yes, the Independent Review evaluated the riskiness of DOE’s loan portfolio and explored an alternative methodology for evaluating the portfolio, “Fair Market Value”, which were some areas GAO had not already covered.