

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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October 13, 2022

The Honorable Jennifer Granholm
Secretary
United States Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Secretary Granholm,

In the past two years, the Department of Energy's (DOE) Loan Programs Office (LPO) has received billions of dollars in new funding, expansions of existing programs, and authority over entirely new ones. This unprecedented expansion raises serious concerns about LPO's ability to dramatically scale up its work in an efficient and responsible manner, given past LPO program problems and failures. As Members of the House Committee on Science, Space, and Technology (the Committee) our priority is to ensure LPO operates effectively, achieves its mission, and doesn't waste taxpayer dollars, and as such, we are committed to conducting rigorous oversight of its programs.

Over the last two years, Congress has appropriated \$15.8 billion of new funding for the coming years for LPO's programs, dwarfing the \$39 million appropriated for Fiscal Year 2022.¹ The Inflation Reduction Act also recently gave DOE an additional \$310 billion in loan authority across LPO's programs,² which is nearly eight times the amount available prior to its enactment.³

In addition to these significant funding increases, LPO's authority has also grown. The Energy Act of 2020 expanded the types of projects eligible for the Innovative Energy Loan Guarantee Program (Title XVII Program) under Title XVII of the Energy Policy Act of 2005 (EPAct '05), among other changes to that program.⁴ This law stated that the following projects are eligible for the program: certain projects that employ elements of already commercialized

¹ See Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, div. D, tit. III (2022).

² Pub. L. No. 117-169, §§ 50141(a), 50144-50155 (2022).

³ See PHILLIP BROWN, CONG. RESEARCH SERV., IN11984, INFLATION REDUCTION ACT OF 2022 (IRA): DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAMS (2022); DEP'T OF ENERGY, *Advanced Technology Vehicles Manufacturing Loan Programs*, <https://www.energy.gov/lpo/advanced-technology-vehicles-manufacturing-loan-program> (last visited Sept. 21, 2022) (indicating the existing authority for the Advanced Technology Vehicle Manufacturing Program).

⁴ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. Z § 9010 (2020).

technologies; carbon capture, utilization, and sequestration practices that employ synthetic technologies to remove carbon from the air and oceans; energy storage technologies; and technologies or processes that reduce greenhouse gas emissions from industrial applications.⁵

Less than a year later, the Infrastructure Investment and Jobs Act (IIJA) directed additional changes to both the Title XVII Program and the Advanced Technology Vehicle Manufacturing Program (ATVM Program).⁶ Among these modifications, the IIJA expanded the list of projects eligible for the Title XVII Program to include those that increase the domestically produced supply of critical minerals.⁷ In addition, it expanded the ATVM Program to cover medium- and heavy-duty vehicles, trains, maritime vessels, and hyperloop technologies.⁸ The IIJA also established a new Carbon Dioxide Transportation Infrastructure Finance and Innovation Program to provide secured loans and grants for transportation infrastructure or equipment for carbon dioxide captured from anthropogenic sources or the ambient air.⁹ For this new program, it authorized to be appropriated \$2.1 billion over Fiscal Year 2022 through Fiscal Year 2026, and it appropriated \$2.1 billion to remain available until expended.¹⁰

Finally, the IRA supplemented regular appropriations for LPO's programs with billions of additional dollars, expanded lending authority for existing programs, and granted DOE the authority to provide yet another category of financing. In addition to existing authority, the IRA increased DOE's lending authority under the Title XVII Program through Fiscal Year 2026 by \$40 billion, which was nearly double the amount of remaining authority at the time of passage.¹¹ It also appropriated an additional \$3.6 billion to DOE through Fiscal Year 2026 for the costs of issuing guarantees under the Title XVII Program.¹² In addition to those changes, it further amended Title XVII of EPA Act '05 to grant DOE the authority to issue guarantees to refurbish or replace defunct electricity infrastructure, or to modify fossil fuel energy infrastructure to prevent the release of air pollutants and greenhouse gasses, through Fiscal Year 2026.¹³ To utilize this authority, the IRA appropriated an additional \$5 billion and granted DOE the authority to guarantee up to a whopping \$250 billion in loans.¹⁴ For the ATVM Program, the IRA appropriated another \$3 billion for the costs of providing loans under that program and completely eliminated the statutory cap on its loan authority.¹⁵ Finally, the IRA appropriated an additional \$75 million for the Tribal Energy Loan Guarantee Program and increased the limit on guarantees under that program to ten times the previous limit prior to enactment.¹⁶

⁵ *Id.*

⁶ Pub. L. No. 117-58, § 40401 (2021).

⁷ § 40401(a)(2).

⁸ § 40401(b)(1)(D).

⁹ § 40304.

¹⁰ § 40304; div. J, tit. III.

¹¹ Pub. L. No. 117-169, § 50141(a) (2022).

¹² § 50141(b).

¹³ § 50144.

¹⁴ *Id.*

¹⁵ § 50142.

¹⁶ § 50145.

In addition to the infusion of billions of dollars, expansion of loan authority limits, and creation of new programs, DOE has reported increased activity for the programs under LPO over the past year. On June 8, 2022 DOE announced it closed on its first loan guarantee “in nearly a decade” with a \$504.4 million loan guarantee to the Advanced Clean Energy Storage Project in Utah.¹⁷ DOE also announced its first ATVM Program loan “in more than a decade,” with a \$102.1 million loan to Syrah Technologies to expand a critical material processing facility.¹⁸ Additionally, DOE reported in August 2022 that applicants had requested \$86.5 billion in loans, and there were 84 active applications.¹⁹

We are concerned about LPO’s ability to manage its programs and make sound investments with federal funds, given past shortcomings and mismanagement. Members of this Committee previously scrutinized the program office and questioned the appropriateness of using federal funds to subsidize favored technologies.²⁰ The Government Accountability Office has also identified shortcomings, such as preferential treatment for certain applicants, lack of sufficient expertise and performance measures, and inadequate staffing.²¹ Similarly, DOE’s Office of the Inspector General (OIG) has identified past problems that will put the program at risk if not rectified, such as insufficient staffing, a lack of comprehensive policies, a lack of accountability and transparency, and the presence of potential conflicts of interest and undue influence.²²

As a result of recent expansions of LPO’s programming, the major funding boost for this office, and the potential risk to the taxpayers associated with its activities, the Republican Members of the Committee intend to conduct robust oversight of LPO in the coming months. To assist the Committee with this, please provide a briefing for Committee staff as well as written responses to the following questions by November 13, 2022:

1. The Energy Act of 2020 requires coordination of the activities under Title XVII of EPAct ’05 with the other relevant program offices at DOE.²³ Similarly, in carrying out the ATVM Program, the IIJA requires coordination with relevant vehicle, bioenergy, and

¹⁷ DEP’T OF ENERGY, *DOE Announces First Loan Guarantee for a Clean Energy Project in Nearly a Decade*, June 8, 2022, <https://www.energy.gov/articles/doe-announces-first-loan-guarantee-clean-energy-project-nearly-decade> (last visited Sept. 13, 2022).

¹⁸ DEP’T OF ENERGY, *DOE Announces First Advanced Technology Vehicles Manufacturing Loan in More than a Decade*, July 27, 2022, <https://www.energy.gov/articles/doe-announces-first-advanced-technology-vehicles-manufacturing-loan-more-decade> (last visited Sept. 13, 2022).

¹⁹ LOAN PROGRAMS OFFICE, DEP’T OF ENERGY, *Monthly Application Activity Report – August 2022*, <https://www.energy.gov/lpo/monthly-application-activity-report> (last visited Sept. 13, 2022).

²⁰ *See, e.g., Department of Energy Oversight: The DOE Loan Guarantee Program*: Joint Hearing before the Subcomm. of Energy and the Subcomm. on Oversight of the H. Comm. on Sci., Space, and Tech. 114th Cong. 8-10 (2016 (statement of Randy Weber, Chairman, Subcomm. on Energy)).

²¹ *See, e.g., id.* at 40 (statement of Frank Rusco, Dir., Natural Res. and Env’t, Gov’t Accountability Office).

²² OFFICE OF THE INSPECTOR GEN., DEP’T OF ENERGY, *SPECIAL REPORT: PROSPECTIVE CONSIDERATIONS FOR THE LOAN AUTHORITY SUPPORTED UNDER THE LOAN PROGRAMS OFFICE TO IMPROVE INTERNAL CONTROLS AND PREVENT WASTE, FRAUD, AND ABUSE*, DOE-OIG-22-34 1-2 (June 2022).

²³ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. Z § 9010(a) (2020), Energy Policy Act of 2005 § 1702(p), 42 U.S.C. 16512(p).

hydrogen and fuel cell demonstration project activities at DOE.²⁴ How does LPO and its leadership ensure proper coordination with the other appropriate program offices at DOE?

2. The IIJA requires that for each project selected under the Title XVII Program as well as the Advanced Technology Vehicle Manufacturing Program, the Secretary of Energy must certify that political influence did not impact the selection process.²⁵ How will LPO ensure compliance with these requirements, and what steps will the certification process include?
3. Recent legislation has expanded the list of projects eligible for the Title XVII Program, as noted above. What steps has LPO taken, if any, to clarify eligibility under this program and prepare for new applications under these categories of projects?
4. The IIJA expanded the ATVM Program to include medium- and heavy-duty vehicles, trains, maritime vessels, and hyperloop technologies, as noted above.²⁶ What steps has DOE taken, if any, to develop guidance for evaluating applications for these types of transportation and to secure the required technical expertise to do so?
5. What actions has DOE taken, if any, to implement the new Carbon Dioxide Infrastructure Finance and Innovation Program established by the IIJA?
6. What actions has DOE taken, if any, to implement the new energy infrastructure reinvestment financing authority established by the IRA?
7. On June 7, 2022, the DOE OIG issued to the Secretary of Energy a special report entitled, *Prospective Considerations for the Loan Authority Supported under the Loan Programs Office to Improve Internal Controls and Prevent Fraud, Waste, and Abuse*.²⁷ At the conclusion of the report, the OIG offered a list of considerations for DOE leadership to consider to improve LPO's internal controls and reduce the likelihood of fraud, waste, and abuse.²⁸ Which, if any, of these considerations have DOE or LPO taken steps to implement?
8. What, if any, staffing changes has LPO made in the past year? Has DOE determined what additional staff will be needed in the near future to address the expansion of LPO's programs?

²⁴ Pub. L. No. 117-58, § 40401(b) (2021), Energy Independence and Security Act of 2007 § 136(j), 42 U.S.C. 17013(j).

²⁵ Pub. L. No. 117-58, § 40401(a) (2021); Energy Policy Act of 2005 § 1702(r); 42 U.S.C. 16512(r); Pub. L. No. 117-58, § 40401(b) (2021), Energy Independence and Security Act of 2007 § 136(d)(5), 42 U.S.C. § 17013(d)(5).

²⁶ Pub. L. No. 117-58, § 40401(b)(1)(D).

²⁷ OFFICE OF THE INSPECTOR GEN., *supra* note 22.

²⁸ *Id.* at 10-11.

Secretary Granholm

October 13, 2022

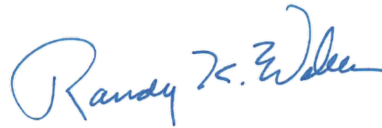
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Thank you for your attention to this matter. Should you have any questions about this request, please contact the Committee Minority staff at (202) 225-6371.

Sincerely,



Frank D. Lucas
Ranking Member
Committee on Science, Space, and Technology



Randy Weber
Ranking Member
Subcommittee on Energy

cc: The Honorable Eddie Bernice Johnson, Chair, Committee on Science, Space, and Technology.

The Honorable Jamaal Bowman, Chair, Subcommittee on Energy.