

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6375
www.science.house.gov

November 29, 2022

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

Dear Secretary Granholm:

As you know, the Infrastructure Investment and Jobs Act (IIJA) authorized the Department of Energy (the Department or DOE) to establish the Office of Clean Energy Demonstrations (OCED). The IIJA and the Inflation Reduction Act of 2022 (IRA) appropriated more than \$27 billion dollars for this office in the coming fiscal years. The establishment of this entirely new program office and tremendous funding infusion raise many important concerns. Additionally, although over a year has passed since the IIJA's enactment, many basic questions about the office's role in the DOE research enterprise remain unanswered.

Energy demonstration projects are a critical bridge between lab discoveries and commercial application of new technologies. The nature and scale of these projects can make administering them difficult, as we have seen in the past at DOE. Given past reports of mismanagement of demonstration projects at DOE, we are particularly concerned about the Department's plans to ensure this massive influx of new money is managed appropriately so taxpayers receive the greatest possible benefit.

As members of the House Committee on Science, Space, and Technology, which has jurisdiction over all civilian research, development, demonstration, and commercial application activities at the Department, our priority is to ensure the success of DOE's demonstration activities, as authorized in the bipartisan Energy Act of 2020. The Committee recognizes the essential role of these activities in driving clean energy innovation in the Department's mission areas and writes to learn more about DOE's progress in standing up OCED and its use of appropriated funds to date.

The IIJA directed the Department to establish a program to oversee energy demonstration projects authorized under the IIJA as well as the Energy Act of 2020.¹ This includes 10 demonstration programs, including major initiatives such as the Advanced Reactor Demonstration Program and the Carbon Capture Demonstration Projects Program, for which the

¹ Pub. L. No. 117-58, § 41201 (2021).

IIJA authorized and appropriated billions of dollars over the coming fiscal years.² The IIJA also mandated specific activities for this program and appropriated to it \$21.4 billion. Less than a year later, the IRA³ also granted this program new responsibility and appropriated additional funding. This most recent law directed the Department to provide financial assistance under an Advanced Industrial Facilities Deployment Program and appropriated \$5.8 billion for this program office to carry out this program from Fiscal Year 2022 through 2026.⁴

In addition to standing up these new programs and absorbing this massive funding boost, the Department is also undertaking a major reorganization, which we are concerned could imperil longstanding DOE activities. In order to implement the IIJA, the Biden Administration recently instituted a major restructuring of the Department, placing OCED under the Office of the Undersecretary for Infrastructure,⁵ an office for which a nominee has yet to be confirmed.⁶ However, the program offices previously managing demonstration projects for various energy resources, like the Office of Fossil Energy and Carbon Management and the Office of Nuclear Energy, now fall under the Office of the Undersecretary for Science and Innovation. We write to learn more about the Department's plans for coordination and communication between both of these offices and their respective undersecretaries.

We are also eager to learn more about OCED's plans to address existing challenges with the Department's administration of demonstration projects. In the past, the Department has failed to manage past demonstration projects appropriately, as detailed in two recent reports by the Government Accountability Office (GAO). GAO found that in managing carbon capture and storage projects, DOE created serious risk to taxpayers by bypassing cost controls and continuing to fund projects that failed to meet performance milestones.⁷ Additionally, GAO's September 2022 report on the Department's nuclear energy demonstration projects concluded that the Department has not institutionalized plans for implementing oversight mechanisms.⁸

While DOE has shared some information about this office through its website,⁹ congressional briefings,¹⁰ and announcements for specific programs,¹¹ the Committee has

² See *id.* at div. D, tit. X, and div. J, tit III.

³ Pub. L. No. 117-169.

⁴ *Id.* § 50161.

⁵ DEP'T OF ENERGY, *Organization Chart*, (Mar. 2022), <https://www.energy.gov/organization-chart> (last visited Oct. 19, 2022).

⁶ See, e.g., *Library of Cong., PN244---David Crane—Department of Energy*, <https://www.congress.gov/nomination/117th-congress/2449?s=1&r=41> (last visited Oct. 19, 2022).

⁷ GOV'T ACCOUNTABILITY OFFICE, GAO-22-105111, CARBON CAPTURE AND STORAGE: ACTIONS NEEDED TO IMPROVE DOE MANAGEMENT OF DEMONSTRATION PROJECTS 15-23 (2021).

⁸ GOV'T ACCOUNTABILITY OFFICE, GAO-22-105394, NUCLEAR ENERGY PROJECTS: DOE SHOULD INSTITUTIONALIZE OVERSIGHT PLANS FOR DEMONSTRATIONS OF NEW REACTOR TYPES 14-19 (2022).

⁹ DEP'T OF ENERGY, *Office of Clean Energy Demonstrations*, <https://www.energy.gov/oced/office-clean-energy-demonstrations> (last visited Oct. 18, 2022).

¹⁰ Powerpoint Presentation, Department of Energy Staff, to House Science, Space, and Technology Committee Minority Staff, "Office of Clean Energy Demonstrations: FY 2023 Budget Request to Congress," May 25, 2022 (hereinafter DOE OCED FY 2023 Staff Briefing).

¹¹ See, e.g., DEP'T OF ENERGY, *Request for Information: Energy Improvements in Rural or Remote Areas*, DE-FOA-0002841_RFI, at 1-2 (Oct. 11, 2022), available at

received minimal details about OCED's activities, its role within the Department, and the status of its efforts to comply with the directions in the IIJA. As such, we must request more information from the Department in order to fulfill our congressional oversight responsibilities. To assist the Committee with this endeavor, please provide a briefing for Committee staff as well as written responses to the following questions by December 29, 2022:

1. The IIJA directs OCED to conduct "independent oversight" of covered projects.¹² Similarly, in a May 25, 2022 briefing, DOE staff indicated that DOE planned to establish "an independent project review capability."¹³ Has DOE established this "independent project review capability"? If so, what does it involve, and if not, when does DOE anticipate it will do so?
2. The IIJA directs the head of the OCED program office to "develop independent cost estimates for a proposal for a covered project, if appropriate."¹⁴ How will OCED determine when an independent cost estimate is "appropriate"?
3. The IIJA requires the head of this program to carry out his or her duties "in coordination with the heads of relevant program offices of the Department."¹⁵
 - a. How does the DOE ensure coordination between OCED and other relevant program offices?
 - b. How does DOE ensure coordination between programs located under the Undersecretary for Infrastructure, such as OCED, and those under the Undersecretary for Science and Innovation?
4. How many employees and contractors does DOE anticipate will be needed to fully staff OCED, and how many additional employees does DOE anticipate it will need to hire?
5. In a May 25, 2022 briefing, DOE stated it plans to establish a "Demonstration Advisory Board" to advise on key decisions by the end of Fiscal Year 2022.¹⁶ Has this entity been established, and, if not, when does DOE anticipate it will do so?
6. In a May 25, 2022 briefing, DOE stated it plans to establish a project management tracking system in OCED.¹⁷ Has this system been established, and, if not, when does DOE anticipate it will do so?

file:///C:/Users/CHarsha/Downloads/BIL_OCED_EERE_RFI_Notification_DE-FOA-0002841,_BIL_OCED_Energy_Improvements_in_Rural_or_Remote_Areas%20(3).pdf.

¹² Pub. L. No. 117-58, § 41201(b)(2) (2021).

¹³ DOE OCED FY 2023 Staff Briefing, *supra* note 10.

¹⁴ § 41201(c)(2).

¹⁵ *Id.* § 41201(c).

¹⁶ DOE OCED FY 2023 Staff Briefing, *supra* note 10.

¹⁷ *Id.*

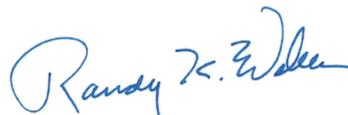
7. In a May 25, 2022 briefing, DOE stated it planned to issue a multiyear program plan by the end of Fiscal Year 2022.¹⁸ Has this plan been issued, and, if not, if not, when does DOE anticipate it will do so?
8. In a May 25, 2022 briefing, DOE stated that its Fiscal Year 2023 budget request included a request for \$150,052,000 for an annual “Energy Demonstrations” competition, with the planned topic for Fiscal Year 2023 to be a Renewable Energy Integration Demonstration competition.¹⁹ DOE also described this proposed competition in its Fiscal Year 2023 Congressional Budget Request document.²⁰
 - a. How does OCED plan to balance its statutorily mandated responsibility to conduct oversight of covered projects authorized in the IIJA and Energy Act of 2020, with its efforts to launch this competition?
 - b. DOE indicated that this would be an annual competition. Which program offices or agency officials will be responsible for selecting the topic for this competition in future years?
 - c. Does DOE plan to have OCED manage any other demonstration programs, other than the covered projects under the IIJA?

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.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ DEP’T OF ENERGY, FY 2023 CONGRESSIONAL BUDGET REQUEST, vol. 3, at 145 (2022), available at <https://www.energy.gov/sites/default/files/2022-09/doe-fy2023-budget-volume-3-v2.pdf>.