

**U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY**

**HEARING CHARTER**

***Department of Energy Oversight: The DOE Loan Guarantee Program***

Thursday, March 3, 2016  
9:30 a.m. – 11:00 a.m.  
2318 Rayburn House Office Building

**PURPOSE**

The Subcommittees on Energy and Oversight will hold a joint hearing titled *Department of Energy Oversight: The DOE Loan Guarantee Program* on Thursday, March 3, 2016, at 9:30 a.m. in Room 2318 of the Rayburn House Office Building. The purpose of the hearing is to conduct oversight of the Department of Energy’s loan guarantee program and direct loans, and examine the market impact and risk associated with federal loan guarantees for energy innovation.

**WITNESS LIST**

- **Mr. Mark McCall**, *Executive Director, Loan Program Office, U.S. Department of Energy*
- **Dr. Frank Rusco**, *Director, Natural Resources and Environment, Government Accountability Office*
- **Gregory Kats**, *President, Capital E*
- **Mr. Nick Loris**, *Herbert and Joyce Morgan Fellow, Thomas A. Roe Institute for Economic Policy Studies, Heritage Foundation*

**BACKGROUND**

The Department of Energy (DOE) Loan Program Office (LPO) manages the Title XVII (Section 1703) innovative clean energy projects loan guarantee program and the Advanced Technology Vehicles Manufacturing (ATVM) direct loan program.<sup>1</sup> The LPO also monitors loan guarantees authorized under the Section 1705 loan guarantee program, a temporary loan guarantee program created by the American Recovery and Reinvestment Act of 2009.<sup>2</sup> The DOE LPO maintains a portfolio of loans for clean energy projects and advanced technology vehicle manufacturing facilities through these programs, as well as issuing solicitations for future loans and loan guarantees under existing authority in the Section 1703 and ATVM program.<sup>3</sup>

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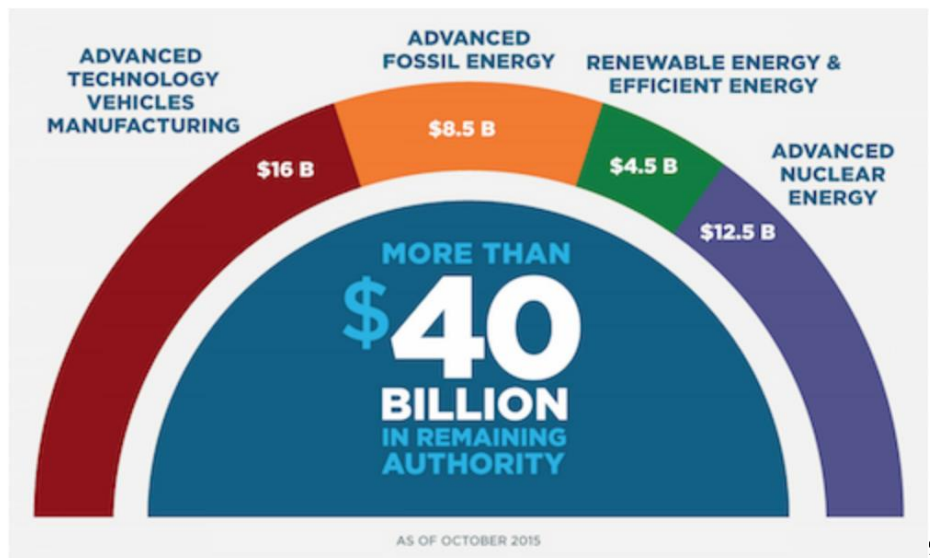
<sup>1</sup> Loan Program Office. “LPO Portfolio Overview.” U.S. Department of Energy. Available at <http://energy.gov/lpo/portfolio>

<sup>2</sup> Loan Program Office. “Section 1705 Loan Program.” U.S. Department of Energy. Available at <http://energy.gov/lpo/services/section-1705-loan-program>

<sup>3</sup> Loan Program Office. “LPO Portfolio Overview.” U.S. Department of Energy. Available at <http://energy.gov/lpo/portfolio>

The Department’s current loan programs portfolio consists of 34 loans and loan guarantees that total approximately \$28 billion in support of 30 projects.<sup>4</sup> Many loan guarantees and ATVM loan program projects have completed construction and are in operation. However, borrowers have defaulted on loans for five projects, including two solar manufacturing projects, two advanced automotive manufacturing projects, and one energy storage project.<sup>5</sup> According to the Government Accountability Office (GAO), between 2008 and 2014, administrative costs have totaled approximately \$312 million, or \$251.6 million for loan guarantees and \$60.6 million for the ATVM loan program, a cost that has been partially offset by the approximately \$196 million in fees collected under the loan guarantee program in the same period.<sup>6</sup> GAO estimates that the total credit subsidy cost (the expected net cost of subsidizing loans over their duration) for the current portfolio to be \$2.21 billion, including \$807 million for loans that have defaulted.<sup>7</sup>

DOE has over \$40 billion in remaining loan and loan guarantee authority under the Section 1703 and ATVM loan programs.<sup>8</sup>



## Section 1703

The Title XVII innovative clean energy projects loan program (commonly referred to as Section 1703) was authorized in the Energy Policy Act of 2005, and was designed to provide loan guarantees to innovative clean energy technology.<sup>10</sup> Under the Title XVII loan program, the Department is authorized to issue loan guarantees to energy technologies including advanced

<sup>4</sup> U.S. Government Accountability Office. “DOE Loan Programs: Current Estimated Net Costs Include \$2.2 Billion in Credit Subsidy, Plus Administrative Expenses.” GAO-15-438: Published: Apr 27, 2015. Publicly Released: Apr 27, 2015. Available at <http://www.gao.gov/products/GAO-15-438>

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Loan Program Office. “Loan Program Office Update.” U.S. Department of Energy. February 2016. Available at [http://energy.gov/sites/prod/files/2016/02/f29/DOE-LPO\\_Email-Update\\_013\\_Final\\_2-Feb-2016.pdf](http://energy.gov/sites/prod/files/2016/02/f29/DOE-LPO_Email-Update_013_Final_2-Feb-2016.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> Loan Program Office. “Title XVII.” U.S. Department of Energy. Available at <http://www.energy.gov/lpo/title-xvii>

fossil energy, nuclear energy, renewable energy and energy efficiency that “avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases,” and “employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.”<sup>11</sup> Title XVII allows DOE to guarantee up to 80% of the eligible costs of a project.<sup>12</sup> LPO is currently accepting applications under Advanced Fossil Energy, Advanced Nuclear Energy, and Renewable Energy and Energy Efficiency solicitations.<sup>13</sup>

In August 2015, President Obama announced that the DOE Loan Programs Office (LPO) would make an additional \$1 billion in loan guarantees available for commercial scale distributed energy projects.<sup>14</sup> The DOE LPO issued guidance to consider distributed energy projects under the Renewable Energy and Energy Efficiency (REEE) and Advanced Fossil Energy Projects, including rooftop solar, energy storage, smart grid technology, and methane capture and storage technology.<sup>15</sup>

## Section 1705

The Section 1705 loan program, a temporary loan guarantee program focused on deployment of renewable energy technologies, was created under the American Recovery and Reinvestment Act of 2009.<sup>16</sup> Under Section 1705, the Department was authorized to provide loan guarantees for projects that began construction on or prior to September 30, 2011.<sup>17</sup> Unlike the Section 1703 program, Congress provided \$2.4 billion in appropriations for credit subsidy costs associated with Section 1705 loans.<sup>18</sup> This appropriation provided a significant advantage to companies who received Section 1705 loans, as they were able to receive loan guarantees with the credit subsidy fees paid for by the taxpayer.<sup>19</sup> The LPO guaranteed approximately \$16 billion in Section 1705 loans to 26 clean energy projects before the authority expired.<sup>20</sup>

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<sup>11</sup> Energy Policy Act of 2005, Title XVII, Section 1703. Aug 8, 2005. Available at <http://energy.gov/sites/prod/files/2014/03/f14/EPAof2005.pdf>

<sup>12</sup> Loan Program Office. “Title XVII Frequently Asked Questions.” U.S. Department of Energy. Available at <http://www.energy.gov/lpo/title-xvii-faqs>

<sup>13</sup> Loan Program Office. “Title XVII Open Solicitations.” U.S. Department of Energy. Available at <http://www.energy.gov/lpo/title-xvii-open-solicitations>

<sup>14</sup> U.S. Department of Energy, *President Obama Announces More Than a Billion Dollars in Energy Department Initiatives to Advance Innovative Clean Energy Technologies*. August 24, 2015, available at <http://www.energy.gov/articles/president-obama-announces-more-billion-dollars-energy-department-initiatives-advance>

<sup>15</sup> U.S. Department of Energy, *Guidance for Distributed Energy Projects*. August 24, 2015, available at <http://www.energy.gov/lpo/distributed-energy-projects>

<sup>16</sup> Brown, Philip. “Loan Guarantees for Clean Energy Technologies: Goals, Concerns, and Policy Options.” Congressional Research Service. January 17, 2012. Available at <https://www.fas.org/sgp/crs/misc/R42152.pdf>

<sup>17</sup> Loan Program Office. “Section 1705 loan program.” U.S. Department of Energy. Available at <http://energy.gov/lpo/services/section-1705-loan-program>

<sup>18</sup> Brown, Philip. “Solar Projects: DOE Section 1705 Loan Guarantees.” Congressional Research Service, October 25, 2011. Available at <http://www.ourenergypolicy.org/wp-content/uploads/2013/08/CRSSolar.pdf>

<sup>19</sup> Ibid.

<sup>20</sup> Brown, Philip. “Loan Guarantees for Clean Energy Technologies: Goals, Concerns, and Policy Options.” Congressional Research Service, January 17, 2012. Available at <https://www.fas.org/sgp/crs/misc/R42152.pdf>

The first company to receive a Section 1705 loan guarantee was Solyndra, a solar company which filed for bankruptcy in 2011, after receiving a \$535 million loan guarantee in 2009.<sup>21</sup> Solyndra's high profile default increased scrutiny and concerns about the loan guarantee program, resulting in congressional hearings, several GAO reports on DOE LPO operations, and an Inspector General (IG) investigation into DOE LPO conduct during the Solyndra loan approval and management process.<sup>22</sup> In addition to concern over taxpayer liability after Solyndra and other loan defaults, the Congressional Research Service outlined concerns with the imbalance between government risk and potential reward, political pressure to approve loan guarantees, and adverse market impact caused by government-backed investment in long-term projects without technology flexibility.<sup>23</sup>

After four years of investigation, the DOE IG released a report on the Solyndra loan guarantee on August 26, 2015.<sup>24</sup> While the report outlined consistent false claims and limited disclosure of updated contract information on the part of Solyndra executives, the IG also found that DOE officials repeatedly failed to verify claims made about performance and sales provided by the company, and relied on third party reviews of Solyndra's finances.<sup>25,26</sup> The IG report also recognized that DOE officials had many opportunities to validate Solyndra's claims but did not do so, saying DOE's "due diligence process missed opportunities to surface and critically analyze problematic information that Solyndra had provided to the Department."<sup>27</sup>

### **Section 136 (ATVM)**

In addition to loan guarantee programs, the DOE LPO also manages the Advanced Technology Vehicles Manufacturing (ATVM) direct loan program.<sup>28</sup> Established in Section 136 of the Energy Independence and Security Act of 2007, the program was designed to support the production of fuel-efficient, advanced technology vehicles and qualifying components in the

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<sup>21</sup> De Ruyg, Veronique. "Testimony Before the House Committee on Oversight and Government Reform: Assessing the Department of Energy Loan Guarantee Program." Mercatus Center at George Mason University. June 19, 2012. Available at <http://mercatus.org/publication/assessing-department-energy-loan-guarantee-program>

<sup>22</sup> Rusco, Frank. "DOE Loan Programs: DOE Has Made More Than \$30 Billion in Loans and Guarantees and Needs to Fully Develop Its Loan Monitoring Function." Highlights of GAO-14-645T, a testimony before the Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives. U.S. Government Accountability Office, May 30, 2014. Available at <http://gao.gov/assets/670/663707.pdf>

<sup>23</sup> Brown, Philip. "Loan Guarantees for Clean Energy Technologies: Goals, Concerns, and Policy Options." Congressional Research Service. January 17, 2012. Available at <https://www.fas.org/sgp/crs/misc/R42152.pdf>

<sup>24</sup> Feking, Kevin. "Report: Solyndra misrepresented facts to get loan guarantee." Associated Press. August 26, 2015. Available at <http://bigstory.ap.org/article/30189ac3d2eb4daf926f2575cf6d0874/report-solyndra-misrepresented-facts-get-loan-guarantee>

<sup>25</sup> U.S. Department of Energy Office of the Inspector General, *Special Report: The Department of Energy's Loan Guarantee to Solyndra, Inc.* August 24, 2015, available at <http://energy.gov/sites/prod/files/2015/08/f26/11-0078-1.pdf>

<sup>26</sup> Feking, Kevin. "Report: Solyndra misrepresented facts to get loan guarantee." Associated Press. August 26, 2015. Available at <http://bigstory.ap.org/article/30189ac3d2eb4daf926f2575cf6d0874/report-solyndra-misrepresented-facts-get-loan-guarantee>

<sup>27</sup> U.S. Department of Energy Office of the Inspector General, *Special Report: The Department of Energy's Loan Guarantee to Solyndra, Inc.* August 24, 2015, available at <http://energy.gov/sites/prod/files/2015/08/f26/11-0078-1.pdf>

<sup>28</sup> Loan Program Office. "ATVM Program Overview." U.S. Department of Energy. Available at <http://energy.gov/lpo/atvm>

United States by providing direct loans to companies engaged in advanced vehicle manufacturing.<sup>29</sup>

Congress provided appropriations for the ATVM program in 2009, allocating \$7.5 billion to cover the subsidy cost for the \$25 billion in loans, as well as \$10 million for program implementation.<sup>30</sup> Since 2007, DOE has awarded \$8.4 billion in loans to five companies (Fisker, Ford, Nissan, Tesla, and the Vehicle Production Group). Two companies were unable to continue payments on their loans, resulting in \$181 million in losses to the Department.<sup>31</sup> ATVM has \$16.6 billion in remaining loan authority, and has not awarded new loans since 2011.<sup>32</sup>

**Important questions and key issues to be discussed at the hearing include:**

- What are the Administration’s goals for the DOE loan programs, and how do these goals reflect the long-term energy needs of the American economy?
- What is the market effect of DOE’s loan and loan guarantee programs? What secondary effects could federal government loan guarantees have on the availability and accessibility of private capital for large scale energy projects?
- What is the risk to the taxpayer inherent in the DOE loan guarantee program? Since loan guarantees transfer risk from the lender to the taxpayer, is there sufficient benefit to justify this risk?
- What changes should be made to the DOE loan program to address taxpayer liability?
- What is the total cost, to date, of the program, including credit subsidy costs?
- What are the most significant risks to the current portfolio? How did the Department identify them and what steps is the Department taking to mitigate them?

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<sup>29</sup> Loan Program Office. “ATVM Program Overview.” U.S. Department of Energy. Available at <http://energy.gov/lpo/atvm>

<sup>30</sup> Canis, Bill and Brent D. Yacobucci. “The Advanced Technology Vehicles Manufacturing (ATVM) Loan Program: Status and Issues” Congressional Research Service, January 15, 2015. Available at <https://www.fas.org/sgp/crs/misc/R42064.pdf>

<sup>31</sup> Ibid.

<sup>32</sup> Loan Program Office. “ATVM Program Overview.” U.S. Department of Energy. Available at <http://energy.gov/lpo/atvm>