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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

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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
Total	**38**	**5**	**$30.3**	**$45.3**

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.

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

February 2007 through May 2014.[1] 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.

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).

[1] 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[a]	$0.2[b]
LGP – Title XVII Section 1705	$15.7	$0[c]	$0[c]
ATVM loan program	$8.4	$16.6	$4.2
Total	**$30.3**	**$45.3**	**$4.4**

Source: GAO analysis of DOE data.

[a]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.

[b]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.

[c]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.[2] (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 EPACT 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).[3] Initially, Congress provided no appropriation to cover the credit subsidy costs of

[2] This project involves constructing two new nuclear reactors at Plant Vogtle in Georgia.

[3] 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.

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,[4] 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.

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.[5]

[4] 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.

[5] 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.[6] 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.[7] 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

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

[7] 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.[8]

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

[8] 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).

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.

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.

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. 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
Loan Guarantee Program (LGP) - Title XVII Section 1705				
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[b]
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[a]	Wind generation	1,314	12/16/10	
Cogentrix of Alamosa, LLC	Solar generation	89	9/9/11	
Desert Sunlight 250, LLC[a]	Solar generation	660	9/29/11	Part of overall Desert Sunlight project
Desert Sunlight 300, LLC[a]	Solar generation	801	9/29/11	Part of overall Desert Sunlight project
Genesis Solar, LLC[a]	Solar generation	852	8/26/11	
Granite Reliable Power, LLC[a]	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[a]	Geothermal	99	9/3/10	
OFC 2, LLC (aka Ormat)[a]	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)[a]	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

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[b]
Stephentown Regulation Services, LLC (aka Beacon Power Corporation)	Energy storage	43	8/6/10	Defaulted/restructured - restructured guarantee is called Stephentown Spindle, LLC[b]
Tonopah Solar Energy (aka Solar Reserve, LLC)	Solar generation	692	9/28/11	
USG Oregon, LLC	Geothermal	94	2/23/11	
Section 1705 subtotal		**$15,711**		
LGP - Title XVII Section 1703				
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
Section 1703 subtotal		**$6,184**		
LGP subtotal		**$21,895**		
Advanced Technology Vehicles Manufacturing (ATVM) loan program				
Fisker Automotive, Inc.	Automotive manufacturing	$529	4/22/10	Defaulted/auctioned (subsequently bankrupt)[b]
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)[b]
ATVM subtotal		**$8,429**		
Total		**$30,323**		

Source: GAO analysis of DOE data.

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.

[a]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 80 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.

[b]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.

Related GAO Products

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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