

Testimony Data

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Testimony #1:

Key Points:

- The COMPANY vehicle design created one of the greatest threats to existing major automobile manufacturers in recent times. Those existing major automobile manufacturers targeted COMPANY and used associates and political operatives to blockade funding for COMPANY. ie: 1.) The COMPANY design provided for a vehicle that went further than any competing vehicle because it weighed the least while providing other features. 2.) The COMPANY design would have sold for less than any competing vehicle because it cost less to manufacture. 3.) The COMPANY design did not use gasoline and existing major automobile manufacturers had financial relationships with gasoline production companies which provided profits for the continued use of gasoline. 4.) The COMPANY design modeled out to be safer than any competing vehicle because of its proprietary construction materials and it's lack of steel. Existing major automobile manufacturers have a financial relationship with the steel industry which provided profits for the continued use of steel. 5.) The COMPANY MUV had many additional features which would have made it more competitive than vehicles produced by existing major automobile manufacturers... 6.) The operation and structure of COMPANY Vehicles made the company easier to operate and easier to make an earlier profit and gain position than existing major automobile manufacturers.
- The majority of small competing car companies received the same blockade treatment designed to favor the few and delay or halt the independents.
- Certain companies used influence buying to create an advantage for themselves and extraordinary profit opportunity by disadvantaging competing American small business ventures.
- Certain individuals used influence buying and peddling to create an advantage for themselves and extraordinary profit opportunity by disadvantaging American small business ventures who were competing with their overseers.
- Certain elected officials used influence buying and peddling to create an advantage for themselves and extraordinary profit opportunity by disadvantaging American small business ventures who were competing with their overseers.
- Various non-transparent associations of parties created a set of efforts to control and distort due process. Those entities include: A group of venture capital organizations, a group of steel industry entities, a group of energy industry entities, a group of Detroit based car companies, a group of new

American alternative car companies, and others. In some cases these parties sabotaged each other as well as the competing car companies.

- The Department of Energy is controlled by special interest groups primarily comprised of: The oil industry, the nuclear industry, major utility companies, infrastructure contractors and lobby groups who, while those lobbyists are “not allowed in the building”, each have staff members that they “manage”.
- The Governor of California states in published media that DOE is “Boot-Dragging” and delaying funding.
- The amount of funding the select few insider car companies got is in direct correlation to the amounts of money they spent buying influence according to recently disclosed government documents.
- Two Detroit major car companies who had applied for the money were currently on public record using the technology which COMPANY held issued patents on and had worked on with DOE facilities, thus creating a tremendous, yet undisclosed, conflict of interest for those applicants.
- Numerous small business applicants experienced the same types of blockades against them.
- Two different letters to COMPANY from a DOE Director, contradict each other and demonstrate an “attempt to deceive” by the DOE Director and his staff.
- A GAO investigation has released public documents verifying part of COMPANY’s claims. COMPANY was asked to assist in that investigation.
- DOE staff claims to have rejected the COMPANY ATVM loan in late 2009 but the loan was actually negated by a compromised DOE Director upon receipt, in December of 2008 without review. The Director then ordered staff to lie to COMPANY for over a year regarding the status. This caused COMPANY massive financial damages by falsely luring COMPANY into expectations and by forestalling outside funding as document in the Wired Article by Telsa Executive Siry.
- DOE used competitors to provide application scores. Little or no review was conducted for “insider” applicants. False and doctored reviews were produced for COMPANY and competing small business applicants by reviewers who have been kept secret by DOE by whose information has been provided by third parties. All of the reviewers are compromised, according to reports. In a side-by-side comparison of applicants and scoring documents, it is clear that the process was rigged to favor a few who controlled the process.
- Detroit lobbyists, speaking on behalf of GM, Ford & Chrysler ordered DOE staff to negate all competing car company applications. In a side by side review of all applicants, dates of applications, and communications between each applicant, their lobbyists and certain officials, it is clear that the process was rigged to favor a few who controlled the process.
- The COMPANY turned in more advanced data and was further along than all other applicants at the time that it applied yet DOE staff “hand-held” favored

parties through the application process while avoiding COMPANY in order to help the favored parties catch up.

- COMPANY was the only applicant to turn in customer order request letters from actual customers, yet companies with no customer order letters were accelerated.
- Even though DOE heads were recorded stating that the application process was on a “first come, first served process”, the DOE documents state this, the law states it and the process documents state this. A named Director at DOE issued a press release stating that first come first serve would be ignored. He did this because the COMPANY was in the lead and favored parties had not been responsible enough to even file their applications because they were told they were a “shoe-in” and that the process was “hard-wired” to favor a few.
- The misrepresentations and the special treatments of competitors cost the COMPANY massive losses in competitive positioning, ramp-up costs based on assertions of favorable loan status, and other damages.

Testimony #2:

“ In September 2008, COMPANY became the first car company applicant to file with the U.S. Department of Energy for a development loan under the ATVM and the Loan Guarantee Program for Innovative Energy Projects (LGP) established under Title XVII of the Energy Policy Act of 2005. A loan application were also filed under the Loan Guarantee Program. 3 loan applications were filed in all. After months of reassurance from certain DOE staff that COMPANYV's application was "substantially complete," the application was denied without explanation in August 2009. There is evidence that the DOE staff were improperly influenced to fund Detroit Big Three projects as well as the insider-connected Tesla, contrary to the letter and spirit of the loan-enabling legislation. In addition, staff believes that certain DOE and lobby staff improperly discriminated against their company's application after the Company questioned the logic of one of the DOE policies in a public hearing and subsequently requested a review of the DOE application process by the Senate Energy and Natural Resources Committee.

The DOE refused to respond to COMPANY's request for review and explanation of the denial of their application, as well as numerous FOIA requests. The GAO undertook a review of DOE's application policies (in response to COMPANYV's complaints, among other things), and recently issued findings that (1) DOE's implementation of the LGP has treated applicants inconsistently, favoring some and disadvantaging others; and that (2) DOE lacks systematic mechanisms for LGP applicants to administratively appeal its decisions or to provide feedback to DOE on its process for issuing loan guarantees. Instead, the GAO found, DOE re-reviews rejected applications on an ad hoc basis. The GAO report issued specific

recommendations that DOE take steps to ameliorate these failings. None of those recommendations have been supported by DOE's office.

COMPANYV wishes to pursue re-review of its denied application in hopes of finally obtaining a DOE loan guarantee for its electric car project. COMPANYV has available for review a complete set of documentation of the application process, and the GAO report can be found at <http://www.gao.gov/Products/GAO-10-627>. Additional investigations by other agencies continue..

It is COMPANY's understanding that funding is still available for COMPANY, that COMPANY is qualified for those funds on every merit but that DOE directors have "blacklisted" the COMPANY because the COMPANY publicly complained about the corrupted process.

COMPANY was the only applicant to turn in customer order request letters from actual customers, yet companies with no customer order letters were accelerated.

The misrepresentations and the special treatments of competitors cost the company massive losses in competitive positioning, ramp-up costs based on assertions of favorable loan status, and other damages.

In investigating the circumstances, it is important to search The Federal Register, lobby disclosure filings, political official meeting calendars, committee hearing videos and transcripts to see how Section 136 and the Loan Guarantee program came into being. It is interesting to see who first discussed those acts and who first supported those acts in preliminary presentations and the relationships to those parties and certain physical locations and business owners in those locations. It is then important to see where those parties now work.

Testimony #3:

From the Wall Street Journal to the New York Times to Wired, the press are conducting their own investigations and the volume of stories and damning details uncovered are increasing.

<http://earth2tech.com/2010/05/14/gm-chryslers-green-car-loan-bids-inch-forward-face-upstart-competition/>

<http://www.wired.com/autopia/2009/12/doe-loans-stifle-innovation/>

<http://www.thetruthaboutcars.com/where-are-those-doe-retooling-loans-anyway/>

<http://blogcritics.org/politics/article/obamas-political-payback-green-corruption-part/>

Reference Document DET1:

The Detroit News

www.detnews.com

March 27, 2010

<http://detnews.com/article/20100327/AUTO01/3270354>

U.S. slow to award loans for retooling

DAVID SHEPARDSON

Detroit News Washington Bureau

Washington -- More than 100 automakers, suppliers and startups have applied for a share of a \$25 billion federal loan program intended to help them retool for fuel efficient, environmentally friendly vehicles. But the U.S. Energy Department has awarded less than \$9 billion from the fund, to four automakers and one supplier. And it hasn't approved a new loan in five months. The agency says it is carefully reviewing applications and plans new loan announcements soon. In the meantime, most applicants who haven't already been turned away are still waiting or have given up. General Motors Co. and Chrysler Group LLC are among those marking time.

Auto suppliers and many politicians want faster action.

"I hope to see the remaining funding allocated as soon as possible," said Sen. Debbie Stabenow, D-Lansing. "Retooling our plants prevents plant closures and saves Michigan jobs." The Government Accountability Office, Congress' investigative arm, is reviewing the department's handling of the program. Spokesman Charles Young said GAO is looking at "what the department plans to accomplish through the loans it is making," and how it intends to manage them. GAO employees have interviewed applicants whose funding requests were rejected, and will announce findings in September. GM has three separate requests pending, totaling \$10.8 billion. Chrysler has sought \$8.55 billion, according to records obtained by The Detroit News under the Freedom of Information Act. The News obtained a list of 97 of the 102 companies that have sought funds. The government withheld the amount sought from 18 of the companies, citing an exemption for "trade secrets" and confidential information.

The loan process was slowed for GM and Chrysler, which exited bankruptcy as new companies last year. The Energy Department is reassessing the two automakers' financial viability in determining if it will approve their requests. Chrysler is

optimistic it will win approval this year. GM expects to get the OK once it begins its new "fresh start" accounting, GM spokesman Greg Martin said. Ford Motor Co., which sought \$11 billion, won a \$5.9 billion loan in June, and Nissan Motor Co. won \$1.6 billion. Startup companies Tesla Motors and Fisker Automotive were awarded \$465 million and \$529 million, respectively. Supplier Tenneco was approved for \$24 million in October, to produce fuel-efficient parts, including at its Marshall, Mich., plant and do research at its Grass Lake engineering center.

A \$25 billion pool

The loan program was seen by some Michigan politicians and other supporters as an urgent lifeline for the struggling auto industry when it finally won funding in 2008. Altogether, the more than 100 applicants, from glass companies to Goodyear, have requested more than \$42.7 billion in loans from the \$25 billion pot. Michigan auto suppliers -- including Delphi Corp., Lear Corp., Metaldyne, BorgWarner, Federal Mogul, ArvinMeritor and Continental AG's U.S. unit -- collectively sought more than \$1 billion. But many were rejected or gave up. Many projects were rejected because they didn't meet the requirement that vehicles must be 25 percent more efficient than models with similar size and performance. Others have struggled to prove they will be financially viable for the 25-year life of the loan, which could be used toward vehicle production or factory construction. Continental, Lear, Federal Mogul, Metaldyne and BorgWarner are among suppliers who say they are no longer in the hunt for funds.

Program becomes priority

Ann Wilson, vice president for government affairs at the Motor & Equipment Manufacturers Association, said the group is disappointed with the "inability to award these loans to the supplier industry." The Energy Department said Friday it has made the program a priority. "We're creating American jobs," spokeswoman Stephanie Mueller said. "The department takes time with each application to conduct a detailed technical and financial review process to ensure taCOMPANYayer interests are protected." Some startups are enlisting prominent politicians to push the Energy Department. Carbon Motors, for example, announced this week that it had reached a deal to buy 240,000 diesel engines from BMW AG. The police car startup says it will start production after it wins a \$310 million government loan. "With some impatience, I have been urging the U.S. Department of Energy to move forward" on Carbon's loan request, said Sen. Richard Lugar, R-Ind.

Additional Facts - Retooling update

California-based startup COMPANY Vehicles founder Scott Redmond argues "only Detroit companies or people connected to big companies or venture capital" are getting money from the \$25 billion retooling fund. His company tried for nearly a year to qualify for a \$40 million loan, but didn't have the money to hire high-paid lobbyists to push the Energy Department, he says.

Oregon-based Brammo Motorcycles, which started selling electric bikes in select Best Buy stores late last year, was rejected for a \$45 million loan because the law applies only to four-wheel vehicles. CEO Craig Bramscher said Friday the company

is lobbying Congress to change the law.

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Testimony # 4

On October 5, 2010, The Obama administration estimated that the \$700-billion financial bailout fund already spent would cost taxpayers a \$51 billion loss. Major projected losses from TARP include \$17 billion spent to rescue [General Motors Co.](#), Chrysler and their financing arms. That taxpayer money is gone never to be seen again, after it was argued that Detroit should get the money because they would pay it back. Only a small percentage of that lost- forever money would have funded every one of the DOE small business applicants! How could they not have diversified their investment with companies that were not on the verge of bankruptcy and give it to those who were?

COMPANY was notified of the pending Section 136 ATVM funding of \$25B for electric and alternative energy vehicles in Mid 2008. COMPANY was the first applicant to apply and was asked by DOE to draft the application for them because the DOE office could not find a loan application form. COMPANY filed two ATVM applications and a Loan Guarantee (A different loan package but managed by the same 3 people as well.) application. In COMPANY's first meeting with the senior officers of the DOE program and the auto industry at DOE HQ (which was videotaped) Senior staff asked one of the Director's a question about the logic of one of his policies after he had been contradicted by his staff on the stage. It was later reported to COMPANY that, after the meeting, The Director said within earshot of his staff something to the effect of "it will be a cold day in hell before I let them get any of this money". Our group filed four different complaints on the ATVM office with the Senate Committee in charge of DOE. The Director of the loan program chose retribution rather than responsive action to deal with the complaints. We feel that the facts and documents show that our applications were particularly discriminated against because of our ethics and propriety complaints.

After a year of waiting and being assured that their loan application was complete and good, COMPANY Vehicles received a letter in August stating simply that their main loan application, under the Advanced Technology Vehicles Manufacturing (ATVM) Program, had been rejected. No reasons were given in the letter and only after several attempts at phoning the ATVM office were they able to receive the reasons orally. Most were not even applicable to the loan application and did not reflect what was included in the submission or what, in fact, was available for review, clearly visible on our website and in the extensive media about our company.

The rejection appears to have been driven by political and competitive market interests and not technical or innovative valuation.

The COMPANY Vehicles car goes an almost unlimited range via hot-swap cartridges, costs less than \$20,000, uses no gasoline, is easy to repair and build, saves lives

better than any other car, is faster than competing solutions, does not require an extension cord, uses electricity and creates green jobs. The factory can be built quickly and at very low cost and, in fact, partially already exists via our manufacturing partners. The company already has thousands of customers lined up who want to buy our unique and very “green” car. The company hand delivered letters from those customers to the DOE ATVM office in Washington DC in 2008. The company currently had no significant debt, a better financial status than any of the applicants at the time, and the company staff have been deferring their salaries many years based on positive feedback received repeatedly by Department of Energy (DOE) loan reviewers and staff. The company won a semi-finalist position in the *Forbes: America’s Most Promising Companies* contest.

Certainly company officials are not claiming that their vehicles will solve all of our energy problems. However with each car that is sold, we will help reduce our reliance on imported fuel by putting a vehicle on the road that uses absolutely no gasoline. This vehicle is truly using “advanced technology” – a major goal of this loan program. In addition, with a company that has no current debt, several patents, and enough interested customers to exceed the financial projections, the company asserts that DOE’s financial risk in investing in our technology would be extremely low.

The COMPANY would understand a rejection of this loan application if legitimate reasons were given, but they were not. One of the reasons given was that the COMPANY car does not use E85 gasoline. No, this car uses NO gasoline which the COMPANY thought is a goal our country should want to attain.

Another rejection reason was that the COMPANY was not making millions of cars. The marketing plan did not support that nor did the funding levels COMPANY requested, AT THIS STAGE. But COMPANY stated that COMPANY hoped to grow to make as many cars as Ford, GM or any other competitor but that COMPANY intended to grow, “in stages” as any smart business would. DOE also stated that COMPANY was not planning to sell cars to the government which is 100% false and clearly stated in our application that the core sales plan of the company is based on government fleet sales. COMPANY cannot help but wonder if DOE even read the application. Finally, and another example of a failure to read the application, was that DOE asserted our factory cost estimates were too low because the metal body fabrication systems were not calculated high enough. COMPANY Vehicles use no metal fabrication in its bodies.

Senator Pelosi’s Staff and Senator Boxer’s staff advised the company to first apply for \$45M because Detroit had pre-tagged almost all of the first \$25B and \$45M was all that might be left for COMPANY after Detroit got their money. COMPANY stated that that would cover the U.S. launch but another \$45M would be needed for follow-on markets. COMPANY was advised by Senate staff that additional funds of up to \$25B more were intended to be acquired for the two loan programs.

COMPANY Vehicles sent a follow up letter to Energy Secretary Steven Chu with the following questions that still remain unanswered and unexplained. DOE refused to respond to COMPANY’s inquiries:

“

DOE reviewers never even talked to the founder, inventor, engineers, project leads or primary contractors to obtain additional information. COMPANY even was told over and over that everything in our application was complete and that nothing was needed. "Everything is on track" was an eCOMPANYression repeated to the company by DOE reviewers. This is despite the fact that the reasons given for our rejection did not reflect the technology being used and therefore the ATVM reviewers did not understand our concept and product. Why was no one at COMPANY Vehicles contacted? Why was the staff at DOE during the course of the year positive about the outcome and never asked for additional information?

Rejection comments supplied by Chris Foster of DOE and third party press seem to be unrelated to the business of the company and have no foundation in fact. Why is that?

One of the main reasons given for the rejection was the fact that our vehicles do not use E85 gasoline. If that was true, why did competitors Tesla & Nissan get approved funding? Their vehicles also do not use E85 gasoline, they are electric. Additionally, in reviewing the transcripts of the two Public Meetings held to brief stakeholders on the loan program, not one DOE speaker stated that E85 was a required component.

While it is true that COMPANY do not wish to use carcinogenic gasoline, (Here in California COMPANY have a sticker on every gas pump that warns that filling your tank is likely to eCOMPANYose you to cancer), at no point was E85 gasoline ever mentioned, discussed, commented on or requested. In fact the topic was particularly avoided by DOE staff. Why not?

Another rejection point was that COMPANY were not planning to make enough cars. This is false. The company would like to build and sell more cars than any other car company. COMPANY are fully willing to produce millions of vehicles if provided with the appropriate funding as it has quantified millions of fleet buyers for its vehicles. However, no DOE entity ever asked us to adjust, discuss or amend our numbers and COMPANY were more than willing to adjust those numbers if anyone had even bothered to ask. One must start out with small steps and COMPANY planned to ramp up to a massive number over time. To suggest that one do otherwise would demonstrate questionable judgment. What is the validity of this comment by the reviewers based on?

COMPANY provided \$100 million+ of asset collateral opportunity for only a \$40M loan. To repeat, COMPANY provided over TWICE the collateral of the value of the loan. How is this not as secure of a structure as any of the other applicants?

COMPANY had selected a primary, secondary and additional back-up factory buildings that DOE said would be fully NEPA compliant yet Tesla had no building, planned to build a structure which was not possible to meet Section 136 parameters in time, still does not have a building yet they received funding. How did that happen if the Section 136 rules required a NEPA compliant building upon application filing?

COMPANY were told that COMPANY were rejected because COMPANY were not planning to sell cars to the government. This is 100% false. The core sales plan of

the company is based on government and commercial fleet sales. Why did your reviewers say this?

Additionally COMPANY were told that electric motors and batteries were considered by the reviewers to be too futuristic of a technology and not developed for commercial use even though they have been in use in over 40 industries for over 20 years, including by NASA. What is the rationale for this argument?

Almost every other part of the COMPANY car was to be purchased from existing commercial sources with multiple points of supply so it is not possible to see how a reviewer might think the vehicle had any significant technical acquisition hurdles. Why does DOE assume that the following companies with whom COMPANY would be contracting could not perform the following responsibilities:

Deloitte & Touche to provide auditing and reporting of financial data.

Autodesk or Microsoft to deliver the process and design software.

NEC, Intel or the other leading electronics companies in the world to build our controllers.

Roush Automotive, one of the most successful automobile electronics groups in the world, to build the electronic module.

US National Lab system to solder a box together.

Over 100 other major supplier companies that have been building parts for the auto, aerospace and industry for decades to deliver the component parts for our vehicles.

The primary purpose of this loan program, COMPANY was told by its authors, was to develop advanced technology and further reduce our dependence on gasoline. The COMPANY Vehicles car uses no gasoline and gets over 125 miles per battery charge. How is this not a direct conflict with the precepts of the Section 136 law?

COMPANY was also told that its factory cost was too low because the metal body fabrication systems were not calculated high enough but the reviewers apparently did not even pay attention to the fact that COMPANY uses no metal fabrication in its body. What was the rationale in making such an erroneous comment?

Reviewers also stated that the car was a "hydrogen car" which it is not. It is an electric car. Why did they say that?

In what ways were the following documents actually reviewed? The ATVM office stated that they "lost our documents" twice. Why?

Documents COMPANY vehicles submitted to DOE:

- Detailed financials that cost the company almost \$200,000 to prepare;
- Metrics that demonstrated that the COMPANY car can save millions of lives per year and that it was safer than any vehicle;
- Metrics that demonstrate that a gasoline/hybrid vehicle is dangerously carcinogenic when filled at a gas station compared to an COMPANY Vehicle;
- Engineering and IP metrics that beat every competitor on price, range, safety, TOC, efficiency, toxic safety and hundreds of other points;
- Examples of work from \$3M of cash and person-hours previously invested by founders, DOE & partners;
- Lists of top auto and aerospace corporate partners, staff and resources, on stand-by, equaling thousands of people in all groups combined;
- Validation of a deep team of core staff that have been developing the project and parts of the project for 3-15 years part time;
- Samples of extensive international positive press coverage;
- Proof of a market opening timed with tax and national imperative incentives that created a dramatic window for success;

- Proof that COMPANY was the lowest overhead car company in the market which equates to the best chance for profit and return funds;
- Samples of an in-house created online process management architecture;
- CAD designs, engineering plans and manufacturing plans;
- A detailed website;
- A detailed path to \$1.5B within 5 years or less from a less than \$100M investment;
- Examples of dozens of prototypes as seen in the photograph on the BUILDS page of our website;
- Numerous patents and issued trademarks;
- Large pending portfolio with third party valuation and validation reports valuing IP at over \$100M;
- People: Senior Scientists, Chemists & Engineers from Top University & Federal Labs, including staff that has built and delivered millions of vehicles to the consumer market;
- Partners: Federal, University, Fortune 500, Private Research Organizations;
- Written Customer inquiries from a massive national customer base of qualified retail leads and 1.2M of commercial unit opportunities equaling a \$1.5B+ opportunity. Also submitted an extensive package of letters from each customer candidate;
- Contracts: Federal Contract fully executed and MOU's executed;
- Awards/Commendations: Congress, DARPA;
- Research Data: Over 200+ technical research documents & 15+ years of research;
- Know How: Over 22,000+ man hours of development;
- Market data, studies and plans;
- Over 100+ documents of industry study;
- Unique access to Federal Labs & leased facility options;
- and other supporting materials.

After several more attempts at receiving more clarification from the ATVM office, the company received a follow up letter of explanation for the rejection. While more explanatory than the first, the reasons still are very questionable and the process greatly lacking in transparency. Below are additional questions that the company is raising, along with the ones above that still have not been answered.

In the October 23, 2009 follow up letter, Mr. Lachlan Seward states that the COMPANY Vehicles loan application was deemed Substantially Complete on November 10, 2009. This is completely false as COMPANY Vehicles received a letter on December 31, 2008 states that the application was substantially complete.



Department of Energy
Washington, DC 20585

December 31, 2008

The Department of Energy (DOE) has determined that your application for the ATVM loan program is substantially complete.

COMPANY Vehicles, Inc
601 Van Ness Avenue, Suite E3613
San Francisco, CA 94102

The Department of Energy (DOE) has determined that your application for the ATVM loan program is substantially complete. Accordingly your application will now be reviewed to determine whether you are an Eligible Applicant as set forth in Section 611.100 of the Interim Final Rule (IFR) and your proposed project is an eligible project as defined in Section 611.2 of the IFR. DOE will advise you if it needs additional information as it continues the application review process. We are committed to processing your application as quickly and responsibly as possible.

Since your application has been reviewed by DOE and is substantially complete, we will now proceed to the next stage in the review process. To enable DOE to more efficiently proceed with its review, please submit your application (with any changes included to reach the substantially complete level) in electronic form. Please send your documents to Brent.Peterson@hq.doe.gov in their original format (i.e., as Word and/or Excel files). Do not submit PDF files for this review.

Additionally, the NEPA for COMPANY Vehicles had been reviewed, edited and approved by DOE National Environmental Protection Act (NEPA) staff (Matthew McMillen) at the beginning of 2009

The letter also states that “extensive review” was conducted yet (as mentioned above) not one COMPANY Vehicle company official, engineer, designer, investor, technician or anyone else who had designed and developed the car was contacted by DOE to answer questions and provide more information. It seems incredulous that after conducting an extensive review that DOE would not have at least one question about the application for any of the technical staff, or the founder who flew to the DOE in Washington, DC, twice, and was told by DOE staff, on each occasion, that “no additional information was needed and everything was in hand to finalize the application”.

The first reason given for the rejection was that the proposed vehicle is at a “development stage” and not ready for commercialization. Yet applications that have already been approved, COMPANY have been told, have had less plans or hard development data. These awardees also had the same three-year timeframe in their proposals, and one even went into 2013. COMPANY also find this contrary to the Administration’s stated goal about electric vehicles. According to a DOE spokesman, the Administration “shares the goal of ensuring that the program (ATVM) is flexible enough to account for the full range of available technologies.”

The second reason was the project’s impact on fuel economy of the US Light Duty Fleet over time was weak. This was never discussed with our team at any point of the process. However, it is surprising to us how a vehicle that is lighter than any other applicant by half, safer than any other applicant by many times and beats the metrics of every other applicants could not have exceeded every applicant on any comparison to Light Duty fleet metrics, a market that was core to our business plan.

Our fleet sales were targeted directly at the Light Duty fleet so COMPANY find this reason to be confusing at best.

The third reason cited in the letter was about the use of “advanced fuels.” First of all, at no point did anyone from DOE ask about or discuss with our technical staff our fuel plans. The letter further goes on to say that our use of hydrogen was one of the reasons that our application was being rejected. Yet hydrogen is non-essential to our vehicle. The hydrogen tank is rather an optional and stand-by power system for our electric vehicles. Further COMPANY fail to see how DOE could state that hydrogen is an “impractical and unproven energy source” in light of the fact that Honda and BMW are already shipping cars using that fuel source. But again, COMPANY must reiterate that the use of hydrogen is not an essential component of our vehicles and had DOE asked us about this fuel source, COMPANY could have explained that to them.

Finally, the letter states that the COMPANY Vehicles petroleum use reductions were unrealistic. COMPANY are most confused about this point as our car uses absolutely no gasoline. How could our reductions be unrealistic? Is this not a goal of the Obama Administration?

The company hired Ford Motor Company’s senior systems engineer to validate the final vehicle numbers submitted in the base response and provided numbers in support of that data produced by Sandia National Laboratories. How could those entities have provided numbers which the ATVM office could have interpreted so negatively for a vehicle which weighs less, goes farther and requires less energy storage than any other submitted vehicle in the entire set of applicants to date? How could the ATVM reviewers never even submit a question to the COMPANY technical team about any of these metrics?

Why have none of our FOIA requests been responded to?”

In summation, these clarifying reasons for rejecting the COMPANY Vehicles ATVM loan application are still confusing, not applicable in many cases and unwarranted when considering those applications that have been approved. The listed points appear to have no foundation in facts relative to our design and COMPANY again question why there was no communication from DOE with the developers of the vehicle over a year.

Further COMPANY have been told that competing larger companies were given much counseling, guidance, feedback and opportunity to “tweak” their applications by DOE. These companies submitted their applications later than COMPANY Vehicles and were awarded funding. Our question is then why did Carol Battershell, DOE Senior Advisor state during the December 1, 2008 Public Meeting that “And that might lead one to believe that applying earlier is better than apply later.” When the program was first announced, that indeed was the guidance given – first come, first served – so scores of smaller, electric car companies and suppliers submitted their applications. Yet the rules changed mid-way through the process to allow larger automotive companies who did not submit their applications first to send them in and now they are being funded.

Finally, COMPANY were very disappointed to read in the September 23, 2009 issue of E&E News that Secretary Chu had suggested in June that the Administration was hoping that GM and Chrysler would be able to participate in the (ATVM) loan program. "There is money there, I wouldn't say set aside, but let's just say COMPANY are trying to stretch those dollars as far as COMPANY can." This forces us to ask whether these funds are being set aside at the expense and loss of smaller, more advanced technology electric car companies and suppliers who are requesting billions less in guaranteed loans and who are offering more forward-thinking and advanced projects to help us move away from our dependence on oil.

This is only a partial list of the problematic issues that COMPANY experienced with the ATVM group at DOE.

Testimony #5

DOE reviewers never even talked to the founder, inventor, engineers, project leads or primary contractors. Why not?

DOE rejected THREE applications in a row. The stated rejection points of which are HIGHLY questionable, in part because the technologies specifically, and in a highly competitive manner, affect the business of those who did get funded and who have large financial ties to the funding approval parties. Why is this not a conflict of interest?

DOE rejected our energy lab for a loan guarantee by having the senior loan officer, Mr. Tobin, never respond to our emails or phone calls as he promised to do, until after the deadline to process had passed, even though COMPANY had secured funds to pay the application fee. This appears to be, quite obviously, intentional. This was REJECTION #1. Why did Mr. Tobin of DOE never respond to the calls, letters or emails to give the single comment that he promised our staff that he would provide so that COMPANY could have our investors send in the fee?

DOE rejected our energy lab for an ATVM loan because you said that the technology did not apply to electric cars even though DOE HAD PAID THEM to build it for electric cars. There are further facts to this incident of note. This was REJECTION #2. Why was rejection number two actually produced?

After nearly a year of waiting, accompanied by writing, verbal and in-person proclamations that "every was fine", "Everything is On-track", "You appear to meet every criteria", etc. and after staff eCOMPANYed the majority of their personal funds based on these positive assertions, the application was suddenly and mysteriously rejected. This was REJECTION #3. Why was staff at DOE requested to provide no indication of any problem during the course of the year, and, in fact, told to be positive about the outcome?

Was Lachlan Seward unhappy with our complaints to the Senate over the ATVM and Loan program and were COMPANY punished for making those complaints? Did

COMPANY get rejected for speaking out?

Rejection comments supplied by Chris Foster of DOE and third party press seem to be unrelated to the business of the company and have no foundation in fact. Why is that?

Billions of DOE and federal dollars have been given to a competitor with little or no review compared to the amount of requested documents for COMPANY. Why is that?

That competitor, referred to above, may be violating COMPANY issued IP and it is therefore acquiring an economic benefit via taCOMPANYayer dollars in a process in which it has massive influence. How is that not a conflict of interest?

That same competitor publicly engaged in vastly promoted research and determined that, of over 3000+ possible options, the best solution to end the era of gasoline was the technology created and patented by us. This very visibly validated our technology and also red flagged the history of this interdiction of our efforts with very quantifiable metrics. How do you eCOMPANYlain the appearance of a conflict of interest here?

Even though the reviewers have refused to provide us with the review comments, others have provided them to us. They have, so far, all turned out to be either false, erroneous, not even relative to our company or contradicted by actions & decisions made in favor of companies with bigger lobby budgets. In other words, it appears to be a "stacked deck" created by, and "hardwired" for, certain special interests. Why have you refused to provide us, the press or senate staff with the review notes? One of the main reasons they gave us for the rejection was the fact that our vehicles do not use E85 gasoline. If that was true, why did Tesla & Nissan get approved funding?

While it is true that COMPANY do not wish to use carcinogenic gasoline, (Here in California COMPANY have a sticker on every gas pump that warns that filling your tank is likely to eCOMPANYose you to cancer), at no point in multiple in-person meetings at DOE or in phone calls or letters submitted was E85 gasoline every mentioned, discussed, commented on or requested. In fact the topic was particularly avoided by DOE staff. Why not?

Another rejection point was that COMPANY were not planning to make enough cars. This is false. The company would like to build and sell more cars than any other car company. COMPANY are fully willing to produce millions of vehicles if provided with the appropriate funding as it has quantified millions of fleet buyers for its vehicles. No DOE entity ever asked us to adjust, discuss or amend our numbers and COMPANY were more than willing to adjust those numbers if anyone had even bothered to ask. One must start out with small steps and were planned to ramp up to a massive number over time. To suggest that one do otherwise would demonstrate questionable judgment. What is the validity of this comment by the reviewers based on?

COMPANY provided \$100 million + of asset collateral opportunity for only a \$40M loan. To repeat, COMPANY provided over TWICE the collateral of the value of the loan. How is this not a more secure structure than any of the other applicants, including those competitors to us who have already gone out of business by mismanagement and been recovered by taCOMPANYayer money ?

COMPANY were told that COMPANY were rejected because COMPANY were not planning to sell cars to the government . This is 100% false. The core sales plan of the company is based on government and commercial fleet sales. Why did your reviewers say this? Why did you think this?

Additionally COMPANY were told that electric motors and batteries were considered by the reviewers to be too futuristic of a technology and not developed for commercial use even though they have been in use in over 40 industries for over 20 years. If this is true, Why did Tesla and Nissan get funding approved?

Almost every other part of the COMPANY car was to be purchased from existing commercial sources with multiple points of supply, so it is not possible to see how a reviewer might think the vehicle had any significant technical acquisition hurdles. The primary purpose of this loan program, COMPANY was told by its authors, was to develop advanced technology and further reduce our dependence on gasoline. The COMPANY Vehicles car uses no gasoline and gets over 125 miles per battery charge. How is this not a direct conflict with the precepts of the Section 136 law?

COMPANY was also told that it's factory cost was too low because the metal body fabrication systems were not calculated high enough but the reviewers apparently did not even pay attention to the fact that COMPANY uses no metal fabrication in its body. What was your rationale in making such an erroneous comment?

At the start of the application process COMPANY was told that the review would be very interactive but there was almost no interaction with us while larger players, who applied later, were reviewed earlier, had extensive interaction and have already been awarded their funds. Why was the interactivity process never used with us?

Reviewers also stated that the car was a "hydrogen car" which it is not. It is an electric car. Why did you say that?

"What part of Autodesk or Microsoft did you think was not capable of delivering the process and design software?"

"What part of Deloitte & Touche did you think was not capable of auditing and reporting the financials?"

"What part of NEC, Intel or the other leading electronics companies in the world did you think could not build our controllers?"

"What part of Roush Automotive, one of the, most successful automobile electronics group in the world, did you think would not be able to build the electronics module?"

"What part of the US National Lab system did you think was incapable of soldering a box together?"

"What part of the over 100 other major supplier companies that have been building parts for the auto, aerospace and industry for decades did you think could not deliver?"

"Have any of the reviewers ever received compensation, payroll, stock or assets-of-value or might you, in the future, receive any of those, or political resources from, any company with major offices located in, or near the city of Detroit or with ownership assets in, or associated with, said entity?"

"Can you clarify the thought process that was used to take funds from a program that was created by law to save American business and give it to a Japanese company to create profits that would return to Japan, while using the same program to take action to seek to put an American company out of business?"

"Can you identify by name the engineers, systems developers or technical staff from COMPANY vehicles that you spoke to, to validate your technical assumptions because not a single one of them recalls ever having any communication with you?"

"Was the rejection a punitive action for previously speaking out about certain practices"?

"You just told a reporter that you did not have enough money to help the handful of new EV car company applicants yet you have already given the failed car companies in Detroit more money than all of the new EV applicants needed put together AND you knew that you had another \$25B on the way. The amount of money COMPANY had requested was so small that other Detroit applicants planned to spend, or have spent, or have already LOST, that amount in a WEEK. How did you do the math on that one?"

"You gave billions of dollars to car companies who have engaged in the most spectacular business mismanagement and business failures in human history, yet you state that COMPANY may have a hard time being financially profitable even though the numbers demonstrate the exact opposite.. who does your math?"

"Why did you tell COMPANY in writing and in person, for 10 months, that you had everything you needed to process the loan, that everything was going along smoothly and that finalization was just around the corner; causing staff to front their own money, and suffer massive damages based on these false assertions?"

" Why did no party at DOE ever raise the E85 gasoline comment or present any other negative or red-flag comments during this entire time with two different applications?"

"COMPANY's industrial designer, while at GM, designed the car featured in the feature film "Who Killed the Electric Car", did this have any bearing on your decision?"

" A company that DOE and TARP have given billions and billions of dollars to, with very little review relative to the COMPANY & Limnia team review, appears to have been eCOMPANYloiting patents held by the COMPANY/Limnia group while using government technology centers. While that group freely received billions of dollars, the COMPANY and Limnia groups were cut off by DOE. What comments can you provide which offset this appearance of impropriety?"

"Why have no COMPANY FOIA's been responded to when it appears that the FOIA's of others were already responded to?"

" COMPANY submitted are large number of customer letters with direct contact information for each customer. These letters were from American taCOMPANYayers asking for DOE to support the building of the COMPANY car, what % points were those given by the reviewers?"

Your department has rejected TWO funding applications from our groups (LIMNIA and COMPANY) with second-hand reasons which do not apply to our efforts. It appears that your group just wants us stopped for some reason. Can you clarify why both funding applications were rejected, mostly for reasons, which we have refuted in writing, that do not even seem to apply to us?

Whether or not some of the reviewers thought the part of the process that they saw was on the up-and-up, in whole, from a high level, it looks like it was not. How can you demonstrate to our satisfaction and the satisfaction of the public that it was?

The DOE reviewers, mostly from "Detroit", have turned down COMPANY's loan application, Aptera and a number of other innovative companies in favor of "Detroit" players. Are we a nation where innovation and great ideas win support or where great influence buyers win the support?

As stated in our Press Release, COMPANY have no problem with the federal government supporting our traditional automotive industry, COMPANY do have a problem with absolutely no support for smaller companies who have not made the

mistakes of the Detroit Three and are just trying to get new technology on the roads today and available to consumers. Americans deserve the opportunity and right to make the right choices and start reducing our energy consumption and air pollution TODAY. Do you not agree?

If America, and the world, wants a car that goes an almost unlimited range via hot-swap cartridges, costs less than \$20,000.00, uses no gasoline, is easy to repair, easy to build, saves your life better than any other car, is faster than competing solutions, does not require an extension cord, uses electricity and creates green jobs; then why wouldn't you let us build it?

In a statistical analysis map, of all of the funding for automobiles, automobile batteries and related funding, almost all of the funding has gone to one state and three companies or connections to those three companies. In a federal lobby disclosure study almost all of that funding is tied in nearly exact ratio to the amount of money spent by those parties as indicated in those filings. The amount of money already received and lost by those groups in TARP and other funding write-offs and defaults appears to exceed the total amount of money that COMPANY already applied for. Why is that?

COMPANY were just waiting for the operational drill-down questions from DOE. Suddenly COMPANY got the rejection along about the time other people had started contacting us. Multiple major media outlets, elected official staffers, regulatory agencies, members of the public, past senior staff from "Detroit" (They probably shouldn't have thrown so many people out on the street without their 401K's or coverage - the ex-Detroiter's know a lot of pretty good info), current agency officials, and other rejected innovation start-ups have contacted COMPANY and shared the information on this page with us. Why did you act in this manner?

In what ways were the following documents actually reviewed. Your office stated that they "lost our documents" twice. Why?

What COMPANY vehicles submitted to DOE: Fortune 500-class extremely comprehensive 10 year, person-by-person, detailed financials that cost the company almost \$200,000.00 to prepare; Metrics that demonstrated that the COMPANY car can save millions of lives per year and that it was safer than any vehicle from competitors; Metrics that demonstrate that a gasoline/hybrid vehicle is dangerously carcinogenic when filled at a gas station compared to an COMPANY Vehicle; Engineering and IP metrics that beat every competitor on price, range, safety, TOC, efficiency, toxic safety and hundreds of other points; Examples of work from \$3M of cash and person-hours previously invested by founders, DOE & partners; Lists of top auto and aerospace corporate partners, staff and resources, on stand-by, equaling thousands of people in all groups combined; Validation of a deep team of core staff that have been developing the project and parts of the project for 3-15 years part time; Samples of extensive international positive press coverage; Proof of a market opening timed with tax and national imperative incentives that created a dramatic window for success; Proof that COMPANY was the lowest overhead car company in the market which equates to the best chance to profit and return funds; Samples of an in-house created online process management architecture; Market and marketing studies; CAD designs; Engineering plans; Manufacturing plans; A detailed website; A detailed path to \$1.5B within 5 years or less from a less than \$100M investment; Examples of dozens of prototypes as seen in the photographs on the BUILDS page of our website.; Patents: Multiple issued seminal patents. Large Portfolio Pending. With third party valuation and validation reports valuing that IP, some of which is currently being infringed by competing

interests, at over \$100M. This was offered as collateral to federal loans; People: Senior Scientists, Chemists & Engineers from Top University & Federal Labs. Including staff that have built and delivered millions of vehicles to the consumer market; Partners: Federal, University, Fortune 500, Private Research Organizations; Written Customer inquiries From a massive national customer base of qualified retail Leads and 1.2M of commercial unit opportunities equaling a \$1.5B+ opportunity. (Our competitors average \$25B/year). Submitted as extensive package of letters from each customer candidate; Contracts: Federal Contract Fully Executed. MOU's Executed; Awards/Commendations: Congress, DARPA; Research Data: Over 200+ Technical Research Documents & 15+ Years of Research; Know How: Over 22000+ Manhours of Development. PROVEN First-To-Market Track-record; Market Data: Over 100+ Documents of Industry Study; Issued trademarks; Facilities: Unique access to Federal Labs & leased facility options; and other support materials

This is extremely frustrating as COMPANY submitted this application almost ten months ago and not once did DOE ask any of our engineers, the founder or our project leads for additional or clarifying information. While other car companies and suppliers were going out of business left and right, COMPANY managed to survive without outside funding for 10 months longer than it was told it would need to. The original Section 136 funds were set to be released last December for GM, Chrysler and Ford. Over the 10 month delay, COMPANY covered its costs without outside support even though GM and Chrysler were removed from the program because "they were not financially viable" according to the DOE, yet they still received outside government funds. There were under 25 applicants in the current round. It takes the commercial banking industry 60 days to review 25 commercial loan applications. This has caused massive damage to our company. How can you help us now that you have put us in this situation?

It is well known that a DOE funding cannot be surpassed in terms by any current bank or investor in this economy. That is why COMPANY Vehicles and several other advanced technology electric car companies were the first to apply for these loans which the major car companies were not able to do. However, the rules were changed midway through the process to allow these late entrants in, thus rewarding those larger late-comers for not being prepared. Now COMPANY Vehicles has learned that almost all the federal money is going to "Detroit" companies or companies closely aligned with Detroit. Why did you change the "first-to-file rules" when we were the first to file?

While COMPANY has absolutely no problem with funding going to our traditional automotive industry, COMPANY finds it hard to believe that almost no funding will be given to small, advanced technology companies trying to move us even further from our dependence on oil. After all, isn't that what President Obama intended with his energy independence program and support for high technology companies? The purpose of "lobby" and "political consultation groups" is to provide the "impression of repercussions" based on the volume of lawyers and string-pullers they retain on staff. The average cost to acquire these recent DOE funds started at a minimum of \$200,000.00 of billings from these groups. COMPANY could not afford to hire these manipulators, nor do COMPANY believe they are a good thing, but the impression that this recent action leaves the average viewer with is that the money must be "bought". Is that true? Is the start-up and small business innovation now dead in America?

COMPANY has requested Freedom of Information Act disclosure of the application dates of the other applicants, review and opportunity to refute the rejection points based on no interaction with the company engineers or project leads and FOIA disclosure of the other application merits, all of which have so far been denied by the DOE review group. Why?

Testimony # 6:

The annual reports for GM, Ford and Chrysler are available online from 2004 to today at sites like:

<http://www.annualreports.com/Company/354>

http://www.gm.com/corporate/investor_information/sec/

There are studies about such reports online from the business schools at a number of Universities.

These in-house and third party reviews show that those three companies saw a trending in their numbers towards a crisis period in operational cost vs. profit as far back as 2005. If a senate committee staffer said that the "Section 136 ATVM loan was created back in 2006 and therefore could not have been a product of the recent car crisis" then he was being naïve beyond words or he was altering reality.

Detroit car companies have massive numbers of financial analysts that sit in their office and run numbers to predict the future. They also hire Deloitte to double check. There can be no doubt, in any retrospective reviewers mind, that Detroit knew the car crisis was coming for them by 2006. So it makes sense that they would start packaging a bail-out option back then.

So: If the Sen. B staffer used the 2006 date as an argument for why the Section 136 ATVM loan could not have been rigged then he screwed himself with his own point because that is exactly when the rigging would have started. Did you ask the staffer where he worked in 2005 and 2006? Was he in Sen. B's office then?

Additionally, Does it really make any sense to think that a few Senate staffers would have just been sitting around and suddenly come up with a \$50B (started out as \$25B) give-away to Detroit on their own, ignoring all other industries in America. The terms that Ford got and GM & Chrysler are getting are massively more favorable than anybody else got or was getting in funding including tens of billions of dollars of write-off without even being required to produce alternative energy vehicles.

Testimony #8

In a report in the news service [Climatewire](#) last November, industry sources described tensions between the Office of Management and Budget and Department of Energy concerning how much money companies should be required to pony up if they want access to a taxpayer-guaranteed loan. The nuclear industry, backed by the DOE, argued for 1 to 2 percent of the total loan; the analysts at OMB reportedly pushed for something in the 2 to 4 percent range. (Obama administration officials dispute this account of agency infighting.) Nuclear critics say that even a 4 percent contribution wouldn't come close to protecting taxpayers in the event of a loan default, and that companies should have to pony up a larger sum upfront. The 2003 CBO study recommended a 30 percent subsidy rate to cover the risk that a project would go under. There are a number of stories about OMB not liking DOE, you might try to find a key OMB analyst to talk to you about DOE ATVM and Loan Process.

GAO INVESTIGATION:

One of the federal investigations (below) was conducted by the United States Government Accountability Office. That investigation continues but the initial report, below, validates the charges that the people in charge of billions of dollars of US taxpayer dollars consistently disadvantaged those who did not support their business or political interests and favored, with cash, those who did. The same people involved in controlling the loan program were the same people involved in controlling the ATVM program:

Why GAO Did This Study

Since the Department of Energy's (DOE) loan guarantee program (LGP) for innovative energy projects was established in Title XVII of the Energy Policy Act of 2005, its scope has expanded both in the types of projects it can support and in the amount of loan guarantee authority available. DOE currently has loan guarantee authority estimated at about \$77 billion and is seeking additional authority. As of April 2010, it had issued one loan guarantee for \$635 million and made nine conditional commitments. In response to Congress' mandate to review DOE's execution of the LGP, GAO assessed (1) the extent to which DOE has identified what it intends to achieve through the LGP and is positioned to evaluate progress and (2) how DOE has implemented the program for applicants. GAO analyzed relevant legislation, prior GAO work, and DOE guidance and regulations. GAO also interviewed DOE officials, LGP applicants, and trade association representatives.

What GAO Recommends

GAO recommends that DOE develop performance goals reflecting the LGP's policy goals and activities; revise the loan guarantee process to treat applicants consistently unless there are clear, compelling grounds not to do so; and develop mechanisms for administrative appeals and for systematically obtaining and addressing applicant feedback. DOE said it is taking steps to address GAO's concerns but did not explicitly agree or disagree with the recommendations.

View GAO-10-627 or key components. For more information, contact Frank Rusco at (202) 512-3841 or ruscof@gao.gov.

DEPARTMENT OF ENERGY

Further Actions Are Needed to Improve DOE's Ability to Evaluate and Implement the Loan Guarantee Program

What GAO Found

DOE has broadly indicated the program's direction but has not developed all the tools necessary to assess progress. DOE officials have identified a number of broad policy goals that the LGP is intended to support, including helping to mitigate climate change and create jobs. DOE has also explained, through agency documents, that the program is intended to support early commercial production and use of new or significantly improved technologies in energy projects that abate emissions of air pollutants or of greenhouse gases and have a reasonable prospect of repaying the loans. GAO has found that to help operationalize such policy goals efficiently and effectively, agencies should develop associated performance goals that are objective and quantifiable and cover all program activities. DOE has linked the LGP to two departmentwide performance goals, namely to (1) double renewable energy generating capacity by 2012 and (2) commit conditionally to loan guarantees for two nuclear power facilities to add a specified minimum amount of capacity in 2010. However, the two performance goals are too few to reflect the full range of policy goals for the LGP. For example, there is no performance goal for the number of jobs that should be created. The performance goals also do not reflect the full scope of program activities; in particular, although the program has made conditional commitments to issue loan guarantees for energy efficiency projects, there is no performance goal that relates to such projects. Without comprehensive performance goals, DOE lacks the foundation to assess the program's progress and, more specifically, to determine whether the projects selected for loan guarantees help achieve the desired results.

DOE has taken steps to implement the LGP for applicants but has treated applicants inconsistently and lacks mechanisms to identify and address their concerns. Among other things, DOE increased the LGP's staff, expedited procurement of external reviews, and developed procedures for deciding which projects should receive loan guarantees. However, GAO found:

- DOE's implementation of the LGP has treated applicants inconsistently, favoring some and disadvantaging others. For example, DOE conditionally committed to issuing loan guarantees for some projects prior to completion of external reviews required under DOE procedures. Because applicants must pay for such reviews, this procedural deviation has allowed some applicants to receive conditional commitments before incurring expenses that other applicants had to pay. It is unclear how DOE could have sufficient information to negotiate conditional commitments without such reviews.
- DOE lacks systematic mechanisms for LGP applicants to administratively appeal its decisions or to provide feedback to DOE on its process for issuing loan guarantees. Instead, DOE rereviews rejected applications on an ad hoc basis and gathers feedback through public forums and other outreach efforts that do not ensure the views obtained are representative.

Until DOE develops implementation processes it can adhere to consistently, along with systematic approaches for rereviewing applications and obtaining and addressing applicant feedback, it may not fully realize the benefits envisioned for the LGP.

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GAO

United States Government Accountability Office

Report to Congressional Committees

July 2010

**DEPARTMENT OF
ENERGY**

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GAO-10-627 What GAO Found United States Government Accountability Office Why GAO Did This Study Highlights Accountability Integrity Reliability

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Highlights of GAO-10-627, a report to congressional committees

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Abbreviations

CRB Credit Review Board DOE Department of Energy EPCA Energy Policy Act of 2005 FIPP Financial Institution Partnership Program GPRA Government Performance and Results Act LGP Loan Guarantee Program NETL National Energy Technology Laboratory Recovery Act American Recovery and Reinvestment Act

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DOE Loan Guarantee Program

*United States Government Accountability Office
Washington, DC 20548*

July 12, 2010

The Honorable Byron L. Dorgan Chairman The Honorable Robert F. Bennett Ranking Member Subcommittee on Energy and Water Development Committee on Appropriations United States Senate

The Honorable Peter J. Visclosky Chairman The Honorable Rodney P. Frelinghuysen Ranking Member Subcommittee on Energy and Water Development Committee on Appropriations House of Representatives

Through calendar year 2009, the Department of Energy's (DOE) Loan Guarantee Program (LGP) received more than 170 applications seeking over \$175 billion in loan guarantees, generally to bring innovative energy technologies to market. Under normal economic conditions, companies can face obstacles in securing enough affordable financing to survive the "valley of death" between developing innovative technologies and commercializing them. Because the risks that lenders must assume to support new technologies can put private financing out of reach, companies may not be able to commercialize innovative technologies without government assistance. The financial crisis that emerged in late 2008, together with the associated economic decline, has further reduced access to capital markets for innovative energy technologies. In this constrained economic environment, even companies that might ordinarily rely on private financing are turning to the federal government for assistance.

Federal loan guarantee programs such as DOE's can help companies obtain affordable financing because the federal government agrees to reimburse lenders for the guaranteed amount if the borrowers default, which encourages lending by reducing the lenders' financial risks. In addition, to the extent that a federal loan guarantee signals confidence in a project, such guarantees can help companies raise capital from other sources, for example by selling equity. However, loan guarantee programs can also eCOMPANYose the government to substantial financial risks. In the past,

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problems with loan guarantee programs have occurred, in part, because agencies did not exercise due diligence during the loan origination and monitoring processes. Since the LGP was authorized under Title XVII of the Energy Policy Act of 2005 (EPAAct), its scope has eCOMPANYanded.¹ The act—specifically section 1703—originally authorized DOE to guarantee loans for 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. In February 2009, Congress passed the American Recovery and Reinvestment Act (Recovery Act), which amended Title XVII by adding section 1705.² Under section 1705, DOE may guarantee loans for projects using commercial technologies. Projects supported by the Recovery Act must employ renewable energy systems, electric power transmission systems, or leading-edge biofuels that meet certain criteria; begin construction by the end of fiscal year 2011; and pay wages at or above market rates.

The LGP's loan guarantee authority has also increased. In fiscal year 2007, Congress authorized up to \$4 billion in loan guarantees for projects that meet the criteria in section 1703. By fiscal year 2009, Congress had authorized an additional \$47 billion in loan guarantees for projects that meet these criteria.³ Congress did not appropriate funds to cover the associated credit subsidy costs—that is, the government's estimated net long-term cost, in present value terms, of direct or guaranteed loans over the entire period the loans are outstanding (not including administrative costs). Consequently, borrowers who obtain loan guarantees under

section 1703 must pay fees to cover these costs. Under the Recovery Act, Congress has provided nearly \$4 billion to cover the credit subsidy costs

1Pub. L. No. 109-58, Title XVII (Aug. 8, 2005).

2Pub. L. No. 111-5 (Feb. 17, 2009).

3Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, Div. C, Title III (Mar. 11, 2009). The act provided that of the authorized amount of \$47 billion, \$18.5 billion shall be for nuclear power. Further congressional direction about the allocation of loan guarantee authority among technology categories was contained in the eCOMPANYanatory statement accompanying the act. Use of the funds appropriated for the program was subject to certain conditions, such as a requirement for DOE to submit an implementation plan to the appropriations committees prior to issuing any new solicitations inviting applications for loan guarantees.

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for projects that meet the criteria in section 1705.4 While the Recovery Act appropriation did not specify the amount of new loan guarantee authority, DOE officials said that the department believes credit subsidy costs will average at least 15 percent of the value of loan guarantees. Accordingly, the nearly \$4 billion Recovery Act appropriation to pay credit subsidy costs could increase the amount of loans that the LGP guarantees by about \$26 billion, raising the program's total estimated loan guarantee capacity to about \$77 billion.

4Pub. L. No. 111-5, Div. A, Title IV (Feb. 17, 2009). Congress originally appropriated nearly \$6 billion to pay the credit subsidy costs of projects supported under section 1705, with the limitation that funding to pay the credit subsidy costs of leading-edge biofuel projects eligible under this section would not exceed \$500 million. Congress later authorized the President to transfer up to \$2 billion of the nearly \$6 billion to eCOMPANYand the "Cash for Clunkers" program. Pub. L. No. 111-47 (Aug. 7, 2009). The \$2 billion was transferred to the Department of Transportation, leaving nearly \$4 billion to cover credit subsidy costs of projects supported under section 1705.

5A 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.

<i>Table 1: Technology Categories Targeted by Solicitations Issued for the LGP and Amounts Available under the Solicitations, as of April 2010 Dollars in billions</i>		
<i>Targeted technology category</i>	<i>Solicitation issuance date</i>	<i>Amount available</i>
<i>Mixeda</i>	<i>Aug. 8, 2006</i>	<i>\$4.0b</i>
<i>Nuclear power facilities</i>	<i>July 11, 2008</i>	<i>18.5</i>
<i>Front-end nuclear facilitiesc</i>	<i>July 11, 2008</i>	<i>2.0b</i>
<i>Coal-based power generation and industrial gasification facilities that incorporate carbon capture and sequestration or other beneficial uses of carbon and for advanced coal gasification facilities</i>	<i>Sept. 22, 2008</i>	<i>8.0</i>
<i>Energy efficiency, renewable energy, and advanced transmission</i>	<i>Oct. 29, 2008</i>	<i>10.0</i>

<i>and distribution technologies (EERE)</i>		
<i>EERE</i>	<i>July 29, 2009</i>	<i>8.5</i>
<i>Electric power transmission infrastructure projects</i>	<i>July 29, 2009</i>	<i>5.0d</i>
<i>Commercial technology renewable energy generation projects under the Financial Institution Partnership Program (FIPP)</i>	<i>Oct. 7, 2009</i>	<i>5.0d</i>

As of April 2010, the department had issued eight solicitations inviting applications for projects using various categories of technologies (see table 1). It had also issued one loan guarantee for \$535 million to Solyndra, one of the companies that responded to DOE's initial LGP solicitation issued in 2006, and had made nine conditional commitments to issue additional loan guarantees.⁵ The one loan guarantee and four of the conditional commitments were made under the Recovery Act; the other five conditional commitments were made under section 1703.
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6When asked if DOE plans to use the \$500 million to cover the credit subsidy costs for projects that are currently under review or for projects that apply under a new solicitation, the department stated that the \$500 million, if approved, will be used by the LGP at its discretion across the full spectrum of qualified energy efficiency and renewable energy projects.

OTHER RECIPIENTS:

Many who have already received money from these programs have either misspent it or wasted more than COMPANY's entire request:

<http://www.autoblog.com/2010/08/10/report-ford-using-government-backed-loans-to-pay-off-debt/>

http://reviews.cnet.com/8301-13746_7-20011657-48.html
Chrysler steps on the gas and puts EVs, hybrids on hold

<http://reason.com/archives/2010/04/27/gms-phony-bailout-payback>