



# ATTACKED BY OBAMA - XP VEHICLES

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## A case study in pay-to-play cronyism

BY DAN EPSTEIN

News flash: **Government subsidies and special-interest favors go hand in hand.**

The latest example comes from a federal green-energy loan program. Last month, the DC District Court ruled that Cause of Action, where I am executive director, can proceed with a lawsuit against the Department of Energy. We're suing the federal government for the blatant political favoritism in its \$25 billion "Advanced Technology Vehicle Manufacturing Loan Program."

In principle, this taxpayer-funded program was supposed to support the manufacture of energy-efficient cars. In practice, it rewarded a select few well-connected companies.

Since the program was created in 2008, numerous businesses have applied for its taxpayer-backed financial support. Yet only a small number were approved. Among the lucky few were two electric car manufacturers: Tesla and Fisker.

Both companies' political connections run deep, especially Tesla's. The company's founder, Elon Musk, was a max donor for President Obama. One of its board members, Steven Westly, was appointed to a Department of Energy advisory board. And another Obama bundler, Tesla investor and adviser Steven Spinner, secured employment in the department's Loan Program Office—the very office that gave the company a taxpayer-backed loan.

Fisker also has friends in high places. The company, which has since gone bankrupt, was backed by a San Francisco venture capital firm whose senior partners donated millions to the 2008 Obama campaign and other Democrat causes. One partner, John Doerr, parlayed his support into a seat on the President's Council of Jobs and Competitiveness.

Such connections can allow a company to exert political pressure to enrich itself. Unsurprisingly, Department of Energy emails show that such pressure was rampant in its loan programs.

There's no shortage of examples. The department's leaders—including then-Secretary of Energy Steven Chu—repeatedly promised to deliver results to politicians like Rep. Steny Hoyer (D-Md.) and Sen. Harry Reid (D-Nev.). One email reads, “DOE has made a political commitment” to approve a company's loan. Another says the “pressure is on real heavy” from none other than Vice President Joe Biden. And still another shows an employee asking, “what's another billion anyhow?”

Unsurprisingly, the Obama administration gave Tesla and Fisker preferential treatment, and then some.

The Department of Energy revised its review process in order finish the companies' applications faster. The government gave them extraordinary access to its staff and facilities—even to the point of having government employees personally walk them through the loan application and approval process. The department ignored its own lending rules in order to approve the companies' loans. And it renegotiated the terms of some loans after the companies could not keep their original commitments or were experiencing financial difficulties. Tellingly, Fisker has since gone out of business, despite receiving over a billion dollars in loans through this federal program.

Now contrast this preferential treatment with what happened to XP Vehicles and Limnia, neither of which have the same political connections. (My organization is suing the Department of Energy on their behalf). The two companies partnered to manufacture an

energy-efficient sport utility vehicle that would have competed with Tesla and Fisker's cars. They applied for loans in 2008 and 2009 under the same loan program.

The department refused them both—and it used bogus reasons to do so.

For starters, the department made claims that were laughably false. To take one example: It rejected XPV's application because its vehicle was powered by hydrogen. It was an electric SUV. It also raised objections that it didn't raise with other companies whose applications were approved. For instance: The bureaucracy criticized the proposed all-electric vehicle for not using a specific type of gasoline. Yet Tesla and Fisker received the loans despite producing similar all-electric cars.

In light of these obvious problems and hypocrisy, both companies presented the Department of Energy with detailed rebuttals. Yet the government failed to respond. To this day, both XPV and Limnia are awaiting a satisfactory reply. In the meantime, XPV has gone out of business, unable to compete against its politically connected—and subsidized—rivals.

This casts the Department of Energy's loan program in a new light. It was sold to the American public as a means of promoting energy-efficient vehicles. Instead, it was used to benefit a select few well-connected companies. It was a blatant crony handout, paid for by the U.S. taxpayer.

Sadly, similar examples are widespread in Washington. That's no surprise considering the feds spend roughly \$100 billion a year in taxpayer-funded handouts to businesses. This breeds the sort of government-business collusion Americans think is rampant in Washington. In fact, over two-thirds of likely voters think the federal government helps businesses that hire the most lobbyists, shake the right hands, and pad the right pockets. They're right.

This points to a simple conclusion: Politicians and bureaucrats shouldn't use the public's money to pad private companies' bottom

lines. As the Department of Energy’s green-vehicle loan program shows, the capacity for corruption is immense—and inevitable.

*Epstein is executive director of Cause of Action, a government watchdog.*

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**Cronyism Lawsuit Against Energy Department’s \$25 Billion Green Energy Program Advances**

# Federal judge rules ‘political favoritism’ lawsuit against DOE to proceed



BY: Joe Schoffstall

A federal judge in Washington, D.C., has ruled that a lawsuit filed by a government watchdog group against the Department of Energy over "political favoritism" within a multi-billion dollar federal green energy loan program can advance.

Cause of Action, a nonpartisan watchdog group, submitted the lawsuit against the DOE arguing the agency awarded loans to companies based on political connections and donations while denying money to similar companies who do not have the same political clout.

The DOE program in question, the \$25 billion Advanced Vehicle Manufacturing Loan Program, was created in 2008 with the intent of supporting the development of energy-efficient cars. The group submitted the lawsuit on behalf of the now dissolved XP Vehicles and Limnia—a former California vehicle company.

Within the complaint, which was initially filed on Nov. 14, 2012, in the U.S. Court of Federal Claims, XP alleges "corruption and negligence" pervaded the Department of Energy's decision to award loan guarantees to Nissan, Ford, Tesla Motors, and Fisker Automotive for the development of electric vehicle technology.

"When politicians and agencies allow companies to purchase government access, the basic foundation of our free market economy is compromised," Dan Epstein, president of Cause of Action, told the *Washington Free Beacon*.

Epstein elaborated on this point in a recent op-ed published in *The Hill*.

Epstein notes Tesla Motors—one of the companies awarded money from the Advanced Vehicle Manufacturing Loan Program—had plenty of connections and access to give them an advantage over a company such as XP Vehicles.

Tesla's founder, Elon Musk, was a maxed out donor to President Obama. Steven Westly, a board member of Tesla, was appointed to a Department of Energy advisory board. Additionally, an investor and adviser of Tesla, Steven Spinner, served as a program analyst at the Department of Energy from 2009 to 2010. Spinner helped monitor the issuance of the \$25 billion coming from the program.

Another beneficiary of the program, Fisker Automotive, also had high-dollar donors to President Obama.

Fisker was backed by a San Francisco-based venture capital firm whose senior advisers donated millions to Democrats during the 2008 election cycle, including Obama. John Doerr, a partner of the group, later secured a seat on the President's Council of Jobs and Competitiveness and helped Fisker land \$192 million in government energy loans. The company has since gone bankrupt.

XP Vehicles and Limnia, on the other hand, were rejected twice by the Department of Energy for what Epstein says are "bogus reasons" despite being similar to other companies who received federal money to aid the manufacturing of energy-efficient cars.

"For starters, the department made claims that were laughably false. To take one example: It rejected XPV's application because its vehicle was powered by hydrogen. It was an electric SUV. It also



raised objections that it didn't raise with other companies whose applications were approved," Epstein wrote. "For instance: The bureaucracy criticized the proposed all-electric vehicle for not using a specific type of gasoline. Yet Tesla and Fisker received the loans despite producing similar all-electric cars."

As a result, XP Vehicles could not compete with the other heavily subsidized companies and has since gone out of business.

Epstein called the recent ruling by a federal district court that allows his lawsuit to advance "groundbreaking" and a victory for individuals and businesses everywhere.

"For the first time, a federal district court has confirmed there is a legal remedy when cronyism influences federal administrative discretionary spending," Epstein told the *Free Beacon*. "This groundbreaking opinion establishes that the government owes everyone—not just presidential campaign donors—a fair shake when awarding government funds."

"Judge Ketanji Brown Jackson's common-sense judgment that government decisions tainted by cronyism and political favoritism are 'arbitrary and capricious' is a victory for individuals and businesses everywhere."

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**Now fired Head of the FBI: James Comey,  
refused to investigate the XP, ZAP,  
Aptera, Brammo, Elio, Bright Automotive  
charges...**

**...of "massive corruption and crony payola" at the  
Department of Energy and Obama White House. The  
charges have now been re-filed with new FBI Director  
Christopher Wray with additional Congressional  
Oversight.**



POLITICAL REPRISAL ATTACKS ON THE PUBLIC: fox1.jpg

# Exclusive: DOE corruption—appointed and elected officials should face prison time



Marita Noon

An exhaustive review of 350+ pages of leaked emails regarding the Obama administration's handling of the various green-energy loan and grant programs makes several things very clear: they lied, engaged in favoritism, and rushed application approvals to suit the political agenda of the White House. At the same time, worthy projects that went through a complete due diligence process were denied or ultimately withdrawn, as the lengthy approval process "taxed investors' patience"—as was the case with Aptera Motors, which worked closely with the DOE for two years.

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Paul Wilbur, President and CEO at Aptera, didn't think they were treated unfairly. He told me, "At the end of the day, we couldn't get through the process." But, he admits, he hasn't read the emails.

Aptera was trying to build a very efficient electric vehicle with an under \$30K price point. Wilbur met with Secretary Chu who could see the value in the technology. But our research shows that value was not the deciding factor in which projects got funded and which ones didn't. Wilbur reports that he didn't donate to any candidate. He wanted to keep the whole process clean and do what was "good for America."

The report from the House Oversight Committee says Aptera first applied for an ATVM loan in December of 2008 and "shut down on December 2, 2011." The report implies that Aptera was led on: "After

numerous negotiations with DOE, in September 2011, Aptera received a conditional loan commitment of \$150 million if the company was able to raise \$80 million privately.” And: “The loans given to Fisker and Tesla gave Aptera hope that DOE would eventually act on their application. More importantly, since the DOE continued to engage with the company throughout the time period, management was convinced that DOE was interested and willing to provide financing for the company.”

Aptera’s 100% US technology has since been sold to a Chinese company.

Aptera was applying for an Advanced Technology Vehicle Manufacturing loan (ATVM). Only five loans were given out through the program and all have political ramifications. Christine Lakatos, who has worked with me on the green-energy, crony-corruption reports I’ve written, has done thorough research on the topic. She has read each and every one of the 350+ pages of emails released on October 31 and has written a [blog post](#) specifically addressing the ATVM program and its hijinks. As she cites, Fisker and Tesla (which Romney referenced in the first debate), got loans in 2010 and then the Vehicle Production Group’s loan was the only ATVM loan closed in 2011; all have ties to Obama bundlers. The other two ATVM loans went to Ford and Nissan—both of which, according to the House [report](#), “were heavily engaged in negotiations with the Administration over fuel economy standards for model years 2012-2016 at the time the DOE was considering their applications. Both companies eventually expressed publicly their support for these standards, which the Administration described as the ‘Historic Agreement.’”

Armed with the sweeping knowledge of the House reports and subsequent hearings, evidence from DOE staffers (many of whom were appointed by Obama), Lakatos’ research, and personal experience, a different ATVM applicant has now taken its case to court citing “corruption and negligence.”

On November 16, 2012, [XP Technologies](#) filed a lawsuit against the federal government concerning the DOE’s denial of XP Technology’s

loan guarantee application. The complaint alleges: “criminal activities did take place by DOE staff and affiliates.” A November 23 press release announces that XP Technologies is now represented by Cause of Action, “a nonprofit, nonpartisan organization that uses investigative, legal, and communication tools to educate the public on how government accountability and transparency protects taxpayer interests and economic activity.”

According to the document filed on November 16, “Plaintiffs' backgrounds include extensive issued patents on seminal technologies in use world-wide, White House and Congressional commendations and an engineering team of highly experienced auto-makers. Plaintiff brought a vehicle design, which was proposed as the longest range, safest, lowest cost electric vehicle, to be built in America in order to deliver extensive American jobs nationwide. No other applicant, or award ‘winner’, has succeeded in meeting, or (is) intending to meet, that milestone. XP Technology developed a patented lightweight, low-cost, long-range, electric vehicle using air-expanded foam-skinned material for a portion of the polymer body and received numerous patents, acclaim and superior computer modeling metrics over any competing solution. XP presented a vast set of letters of support to DOE from pending customers. Major auto-industry facilities and engineers had joined forces to bring the vehicle to the defense, commercial and consumer market.”

Over the weekend, we had an exclusive interview, on condition of anonymity, with a senior official at XP Technologies about the lawsuit and the experience.

He reported: “Staff from within the DOE have provided evidence which is quite compelling.” As Aptera's Wilbur made clear, the individuals within the DOE were very thorough. One of the emails, in the 350+ pages, was from Secretary Chu himself in which he criticized staffers for taking a “principled stand,” which held up the approval process of projects the White House wanted advanced. Another indicated that the pressure to rush was coming from “above the agency.” Overall, the emails show that projects were rushed so that announcements could coincide with visits, speeches, and photo ops—as well as providing talking points for the president.

Our XP source told us “We experienced, and have been provided evidence of, applicant submissions and reviews being modified in order to benefit some and disadvantage others, and the business connections between the different parties associated with the ones that benefited is quite extraordinary.” The leaked emails support this accusation, specifically regarding the “business connections.” In her post, Lakatos calls it “green fraternizing.” The emails show that certain applicants and decision makers went bike riding together, had coffee meetings, sleepovers, beer summits, parties, dinners, and fundraisers.

While he didn’t provide us with a name, the XP official said, “We experienced a senior senator blockading our efforts and then providing favors to a competitor, which then benefited his family financially.” The discovery the lawsuit will provide will expose the “senior senator,” but our previous research shows that Senator Harry Reid’s actions seem to fit the XP official’s comment.

XP Technologies believes that “DOE officials changed the first-come-first-served published rules and standards of the funding in order to take applicants in order of who they favored and who had purchased the most influence instead of the order in which they applied, as required.”

Having extensively studied the DOE’s various loan programs, including the ATVM, Lakatos and I agree with our source’s startling conclusion: “Based on the evidence provided by investigators, and experienced directly by our team, it is hard to imagine that at least one or more elected, or appointed, officials might not be seeing measures ranging from censure or even federal prison time.”

Time, the lawsuit, and subsequent investigation will tell.

While the House Oversight Committee has been digging deeply into the mismanagement and corruption of the green energy loans, the media has paid little attention. Other than our report, the October 31 release of the emails cited here received virtually no news reporting. Even the Fox News Channel ignored the story. The plight of promising companies like Aptera and XP Technologies would have

gone unnoticed if not for the lawsuit. The legal complaint attracted attention.

On November 16, the Heritage Foundation broke the XP story: “A lawsuit filed in federal court on Wednesday alleges mass favoritism in the Department of Energy’s decisions to award federal grants to major car companies to develop electric vehicles, according to a legal complaint obtained by Scribe.”

On November 19, Lakatos, whose work is listed as “evidence” in the legal complaint, received a call from Fox News’ Gary Gastelu—who reported on the story on November 20. The next day, Fox News covered the lawsuit on America’s Newsroom. Even the Drudge Report picked up on the story.

XP has a litigation website on which the company states: “The case has nothing to do with complaining about not getting the loans. It has everything to do with HOW the applicants didn't get the loans!” They are communicating with other applicants about participating in the lawsuit.

The XP story and subsequent media coverage offers a lesson for others—especially industries who have been wronged by the Obama Administration’s practices (such as energy). The lawsuit may—or may not—send officials to federal prison, as our XP source suggests, but it could go a long way to winning in the court of public opinion.

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## Obama's 'Department of Payback'

Thomas Sowell, World Net Daily,

Those people of good will who want to replace the racism of the past with a post-racial society have too often overlooked the fact that there are others who instead want to put racism under new management, to have reverse discrimination as racial payback for past injustices.

Attorney General Eric Holder became a key figure epitomizing the view that government's role in racial matters was not to be an impartial dispenser of equal justice for all, but to be a racial partisan and an organ of racial payback. He has been too politically savvy to say that in so many words, but his actions have spoken far louder than any words.

The case that first gave the general public a glimpse of Attorney General Holder's views and values was one in which young black thugs outside a voting site in Philadelphia were televised intimidating white voters. When this episode was broadcast, it produced public outrage.

Although the Department of Justice's prosecution of these thugs began in the last days of the Bush administration, and the defendants had offered no legal defense, the case was dropped by the Justice Department after Eric Holder took over. One of the lawyers prosecuting that case resigned in protest.

That lawyer—J. Christian Adams—has now written a book, titled "Injustice: Exposing the Racial Agenda of the Obama Justice Department." It is a thought-provoking book and a shocking book in what it reveals about the inner workings of the Department of Justice's civil rights division.

Moreover, the civil rights division of the Justice Department has turned the same blind eye to similar voter intimidation and



corruption of the voting process by other people and other organizations in other cities and states—so long as those being victimized were white and the victimizers were black.

The widespread, organized and systematic corruption of the voting process revealed by the author of “Injustice” is on a scale that can swing not only local but national elections, including the 2012 elections. The Department of Justice under Eric Holder has not only turned a blind eye to blatant evidence of voter fraud, it has actively suppressed those U.S. attorneys in its own ranks who have tried to stop that fraud.s

This is an enormously eye-opening book which makes painfully clear that, where racial issues are concerned, the Department of Justice has become the Department of Payback. A post-racial society is the last thing Holder and Obama are pursuing.

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