

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

September 20, 2011

The Honorable Steven Chu
Secretary
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Chu:

Pursuant to Rules X and XI of the United States House of Representatives, the Committee on Energy and Commerce is examining the Department of Energy (DOE) Loan Guarantee Program. We write today regarding the remaining funding available for Section 1705 Loan Guarantees provided by the American Recovery and Reinvestment Act (ARRA), commonly known as the “stimulus.”

The stimulus provided approximately \$2.5 billion in funding to pay the Credit Subsidy Costs for certain kinds of loan guarantees awarded by the DOE, specifically, renewable energy systems, electric power transmission systems, and leading edge biofuel projects. These loans are commonly referred to as “Section 1705 loan guarantees.” In order for a loan guarantee project to be eligible for this funding, the stimulus required that the project begin construction no later than September 30, 2011. The stimulus also provided that your authority as Secretary to enter into such guarantees shall expire no later than September 30, 2011.

Since the stimulus was enacted in February 2009, the Department of Energy has closed 18 loan guarantees, totaling \$9.4 billion. DOE’s pace has now accelerated rapidly, with seven loan guarantees totaling \$3.6 billion — or one-third of DOE’s total closed loans — finalized in the last two months.

DOE has also been accelerating its award of conditional commitments. As of today, DOE has 14 conditional commitments outstanding under Section 1705, totaling \$8.89 billion. DOE issued almost all of these conditional commitments — ten conditional commitments totaling \$8.029 billion — in June of this year or later.

Since February, the Committee on Energy and Commerce has been investigating DOE's award of a \$535 million loan guarantee to Solyndra, Inc – the first loan guarantee made under Section 1705. During the course of our investigation, the Committee has identified several documents which suggest that the timetable to issue the Solyndra loan guarantee was accelerated in order to meet stimulus deadlines, impacting the quality and comprehensiveness of DOE's and OMB's due diligence. For example, beginning in December 2008, a DOE employee began raising concerns about Solyndra's working capital. In August 2009, just before Solyndra's closing, that same employee again noted that the working capital issue remained unresolved, and that the "model runs out of cash in Sept. 2011 even in the base case without any stress." The documents also suggest that OMB's review and approval of the Solyndra loan guarantee was rushed as well, and that OMB employees felt pressured to complete their review ahead of a September 4, 2009, groundbreaking event at Solyndra's manufacturing facility – an event that you attended and that featured an appearance via satellite by Vice President Biden. Now that Solyndra has declared bankruptcy, we cannot help but wonder whether additional time to review this guarantee might have prevented the taxpayers from being on the hook for the \$535 million loaned to the company.

With so much of DOE's Section 1705 Loan Guarantee portfolio not yet finalized, and the September 30, 2011, stimulus deadline to close these guarantees just days away, we are concerned that another rush to meet stimulus deadlines will result in DOE closing these deals before they are ready. We are sensitive to the concerns of private companies that have applied for these loan guarantees and may have been given assurances by DOE that they will close. We also do not want anything to stand in the way of private-sector job creation. Nevertheless, we question whether the DOE needs additional time to conduct its due diligence to ensure that taxpayer dollars are not being put at risk unnecessarily. Therefore, we ask that you provide written answers to the following questions no later than Friday, September 23, 2011:

1. Does the DOE intend to close each of the ten conditional commitments issued under Section 1705 and totaling \$8.029 billion before the September 30, 2011, deadline set by the stimulus?
2. Does the DOE have the authority to ask for additional time to conduct due diligence on the ten conditional commitments made under Section 1705, and finalize them at some date after September 30, 2011? If so, please provide citations to that authority. If not, please explain what authority is needed.
3. What will be the result if the DOE does not finalize each of the ten conditional commitments made under Section 1705 before September 30, 2011?

In addition, we request that your staff provide a briefing to Committee staff no later than September 26, 2011, regarding the financial condition of each closed loan guarantee and the 14 conditional commitments. For each company that received a loan guarantee, or that has a conditional commitment for a loan guarantee, please provide a copy of the credit committee paper and most recent audited financial statements. In addition, for those companies whose loan guarantees have been finalized, please provide copies of all monitoring reports submitted by

those companies and the annual loan reviews for those companies. These documents should be provided to the Committee as soon as possible.

Please do not hesitate to contact Karen Christian or Todd Harrison of the Majority Committee staff at (202) 225-2927 with any questions about this matter.

Sincerely,



Fred Upton
Chairman



Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations



Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Bobby L. Rush, Ranking Member
Subcommittee on Energy and Power