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October 31, 2012

MEMORANDUM

TO: Members, Committee on Oversight and Government Reform

FROM: Majority Staff, Committee on Oversight and Government Reform

SUBJECT: Update on Committee's Oversight of the DOE Loan Guarantee Program: New Emails Show President Obama, Senior Administration Officials Misled American People about Role of President and White House in Program

For over a year, the Committee has been conducting comprehensive oversight of the Obama Administration's Sec. 1705 green energy loan guarantee program, administered by the Department of Energy (DOE). The Committee held five hearings, sent dozens of letters, interviewed numerous current and former DOE officials, and reviewed hundreds of thousands of documents produced by DOE, loan recipients, individuals, and other organizations with a stake in the 1705 loan guarantee program.

DOE obligated \$14.5 billion to 26 projects before the loan program's termination in September 2011. Three of those projects (Solyndra, Beacon, and Abound) have already declared bankruptcy, and several others are facing serious financial difficulties. Twenty-two of these projects were rated below investment grade (junk) because of their bad credit quality.¹

Since the first loan guarantee recipient declared bankruptcy (Solyndra, in September 2011), the Administration, particularly the President and Secretary Chu, has insisted that political cronyism played no role in the allocation of taxpayer funds in the program, despite substantial connections between numerous companies that received loan guarantees and friends, fundraisers and donors to President Obama and others in his Administration. The Administration has also attempted to deflect blame for the program's controversies, insisting that career bureaucrats at DOE made the decisions that led to the program's massive failures and losses. Most recently, President Obama personally assured the American people that decisions made in the loan program were "decisions, by the way, that are made by the Department of Energy, they have nothing to do with politics."²

¹ See "The Department of Energy's Disastrous Management of Loan Guarantee Programs," Staff Report, Committee on Oversight and Government Reform, March 20, 2012. Available at <http://oversight.house.gov/report/the-department-of-energys-disastrous-management-of-loan-guarantee-programs/>.

² President Barack Obama, interview with 9NEWS, October 27, 2012. Available at <http://www.9news.com>.

In recent weeks, the Committee obtained documents from current and former DOE employees and contractors, many of which have been withheld by the Department of Energy for more than a year. This memo outlines key information the Committee has recently uncovered that suggests statements by the President and others in his Administration were misleading and that the White House, senior Administration officials, and President Obama himself played key roles in the Loan Guarantee Program.

The Administration's Claim: "DOE Officials" Made All Decisions on Specific Loans

- On Friday October 26, 2012, President Obama told a local Denver, Colorado news anchor that decisions made in the loan program office are "decisions, by the way, that are made by the Department of Energy, they have nothing to do with politics."
- Secretary Chu, testifying before the House Oversight Committee in March 2012, said "we looked at the loans on their own merits." Testifying before the House Energy and Commerce Committee in November 2011, Secretary Chu said "I am aware of no communication from White House to Department of Energy saying to make the loan or to restructure."
- On October 30, 2011, White House Senior Advisor David Plouffe told Meet the Press' David Gregory "decisions about the loan program were made by career officials in the Department of Energy on the merits."
- Loan Program Office Chief David Frantz told the Committee "I have been with the program from its inception to today... not a single project has been brought forward, gone through the due diligence process, closed, and been awarded a loan guarantee with other than the pure merits of the project itself. There has been no, to the best of my knowledge, political coercion on any one of the single projects."

Those "DOE Officials" Describe Repeated Decision Making by the White House

- From an email dated October 30, 2010 from DOE Loan Program Office (LPO) Credit Advisor Jim McCrea to LPO Executive Director Jonathan Silver:

"I am growing increasingly worried about a fast track process **imposed on us at the POTUS level** based on this chaotic process that we are undergoing...by designing the fast track process and **having it approved at the POTUS level (which is an absolute waste of his time!)** it legitimizes every element and it becomes embedded like the 55% recovery rate which **also was imposed by POTUS.**" (Email #1, attached)
- From an email dated March 1, 2010 from David Schmitzer, DOE LPO Director of Loan Origination to LPO Credit Advisor McCrea and others:

"Jonathan just said at our staff meeting that, opposite the message received on Thursday, AREVA is now a "go" (seems on Friday POTUS himself approved moving it ahead)." (Email #2, attached)

- From an email dated June 25, 2010, LPO Executive Director Jonathan Silver encourages LPO Credit Advisor Jim McCrea to remind a Treasury official of White House Interest in now bankrupt Abound Solar:

“You better let him know that WH wants to move Abound forward. Policy will have to wait unless they have a specific policy problem with abound.” (Email #3, attached)
- From an email dated September 9, 2010 from LPO Credit Advisor McCrea to DOE contractor Brian Oakley:

“Pressure is on real heavy on SF [Shepherds Flat] **due to interest from VP.**” (Email #4, attached)
- Lobbying White House and VP’s Office Achieves Results: Officials at the Department of Interior remove obstacles to BrightSource Energy’s Ivanpah project after the Office of Political Affairs and Vice President’s office get involved
 - A May 23, 2011 email, drafted by BrightSource Energy CEO John Woolard for BrightSource Board Chairman John Bryson (who later became Secretary of Commerce) to send to White House Chief of Staff Bill Daley, states: “**This project is now at significant risk due to delays in permitting at the Department of Interior...** This project has been very high profile for the administration, President Obama highlighted it in his weekly address, Sec Salazar attended and spoke at the groundbreaking, and DOE has already spent \$400 million.” (Email #5, attached)
 - An email dated May 25, 2011 from BrightSource CEO John Woolard stated “we are making good progress in DC. Whitehouse [sic] does seem to be very focused on this issue, **in fact it is being elevated through the office of political affairs as well as VP Bidens- so we are starting to get them focused on the massive political risk-** it helps that Bloomberg called Ivanpah “Obama’s energy project” so it does have their attention.” (Email #6, attached)
 - Two weeks later, in an email dated June 12, 2011, BrightSource staff informed the company’s Board of Directors that the company got what it wanted from the Department of the Interior: “The U.S. Fish and Wildlife Service issued their revised Biological Opinion, prompting the Bureau of Land Management to issue a new notice to proceed allowing continued construction at Ivanpah units 2 and 3.” (Email #7, attached)

Administration Officials Moved Projects Forward to Help Key Allies

- **DOE officials were aware of Senate Majority Leader Harry Reid’s tough reelection in 2010 and moved projects that were important to Senator Reid forward.**
 - In a December 5 2009 email, Loan Program Office Senior Credit Advisor Jim McCrea forwarded an article about Senator Reid’s reelection campaign to LPO contractor Paul Barbian and stated: “Since this is not going to go into the DOE, and just to be clear, the translation is: **Reid may be desperate. WH may want to help. Short term considerations may be more important than longer term considerations and what’s a billion anyhow?**” (Email #8, attached)
 - In a May 4 2010 email, LPO Executive Director Jonathan Silver wrote in an email “I need some stats on how many projects we have funded or have in DD [due diligence] as a percentage of totals. **Reid is constantly hit at home for not bringing in the federal dollars.**” (Email #9, attached)
 - Throughout 2010 LPO emails indicate that projects in Nevada were prioritized because they were “high profile,” “tied to larger events,” or because they had Senator Reid’s support. **These projects included the \$343 million SWIP project (Email #10, attached), the \$98.5 million Nevada Geothermal project (Email #11, attached), and the \$737 million SolarReserve Tonopah project (Email #12, attached).**
- **Secretary Chu personally issued orders to prioritize the Unistar project, a project favored by House Majority Leader Steny Hoyer.** Constellation Energy and Electricite de France (EDF), entered into a joint venture, UniStar, seeking a loan guarantee to create a new nuclear reactor at the Calvert Cliffs, Maryland plant.
 - Jonathan Silver wrote to Secretary Chu’s Chief of Staff Brandon Hurlbut in a December 10, 2010: “since aldy [White House staffer Joe Aldy] personally promised the edf management group [one of the sponsor’s of the Unistar loan guarantee project] that he would lead an inter-agency review of this topic, we should tell him that he should be the one to call and deliver the news.” (Email #13, attached)
 - A series of emails from May 25, 2010 through June 4, 2010 between McCrea and other DOE officials state “**there has been a commitment from S1 [Secretary Chu] to Steny Hoyer on this.** Nothing like over committing and under delivering.” (Email #14, attached)
 - A second email specifies that “DOE has made political commitment to get Unistar through approval process by 6/15.” The pressure stays on, as a third emails states, “**Just came down from the Secretary’s office. He is adamant that this transaction is going to OMB by the end of day.**” (Email #15, attached)

- The direct order from Chu overrode hesitation from McCrea: “Ordinarily, over an issue like this, I would refuse to sign the credit paper and refuse to send it to OMB tomorrow but given the direct order I was personally given by S1[Secretary Chu]...” (Email # 16, attached)

Administration Claims Decisions Were Made “On the Merits”, But Home Visits and Dinner Parties for Loan Guarantee Applicants Suggest Cozy Relationships

- Several months before Brightsource received a \$1.6 billion loan guarantee, the company’s CEO, John Woolard, came to Washington. On November 10, 2011, Woolard emailed Jonathan Silver, Executive Director of the Loan Program, “Thanks for offering to meet at your house tomorrow morning. It looks like I land at Dulles at 7:20am – can you please send your address or let me know if it works out better for me to just land and grab a hotel for run/shower and meet later?” Silver responded and gave Woolard his home address, adding “C[o]me anytime. Guest bedroom is ready. I’ll be back from my breakfast at 9:30.” (Email #17, attached)
- According to a September 2011 email, in January of 2011, while Brightsource’s application was still pending, Mr. Silver and his wife, Melissa Moss, hosted a dinner party at their Georgetown home for John Bryson, then-Chairman of the Board at Brightsource. After Mr. Bryson was later appointed by President Obama as U.S. Secretary of Commerce, Mr. Bryson fondly remembered the dinner as “a gathering of very experienced, smart, and savvy DC people.” (Email #18, attached)

Conclusion

Contrary to the Administration’s assertions, the loan program’s failure cannot be isolated to the Department of Energy Loan Program Office, or to the Department of Treasury or the Office of Management and Budget. **Over 150 emails are enclosed with this memorandum.** The attached emails demonstrate that non-political, career Department of Energy employees felt political pressure from sources as high as the President, Vice President, Secretary Chu and senior White House officials. The attached emails also demonstrate that infighting between agencies and mismanagement by the White House resulted in a breakdown of due diligence that ended up wasting billions of taxpayer dollars.

Please see [Appendix I \(http://1.usa.gov/Va4IL0\)](http://1.usa.gov/Va4IL0) for emails referenced above in this memorandum, and [Appendix II \(http://1.usa.gov/SI3hou\)](http://1.usa.gov/SI3hou) for other related emails. If you have any questions, please contact Committee staff at 5-5074.