

Federal Judge Hears Limnia Case For Crony Offset Re-Do

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Federal Judge Issues Landmark Ruling on Cronyism in Energy Loan Guarantee Program

Ruling marks the first time a court has allowed a claim under the Administrative Procedure Act on the basis of cronyism or political favoritism in federal discretionary spending. In response to a legal [complaint](#) filed by Cause of Action (CoA), a federal judge has declared that U.S. Department of Energy discretionary spending tainted by alleged cronyism and political favoritism is subject to legal challenge.

[Read the Opinion Here](#)

[Read the Order Here](#)

Cause of Action represents XP Vehicles (XPV) and Limnia, two green energy companies that were denied loans and a loan guarantee in favor of politically-connected corporations. XPV is a now-dissolved company that had applied for a loan under the DOE's Advanced Technology Vehicle Manufacturing (ATVM) Loan Program in order to manufacture a lightweight, energy-efficient sport utility vehicle. XPV partnered with Limnia, a company that developed an energy storage system to power XPV's proposed vehicle. Limnia had applied for an ATVM loan, as well as a loan under DOE's Section 1703 Loan Guarantee Program (LGP). The ATVM Loan Program is designed to provide direct loans to manufacturers of energy-efficient vehicles, while the LGP allows the agency to guarantee loans for advanced technology projects that result in the avoidance or reduction of air pollutants. This is the same program that awarded Solyndra \$535 million in taxpayer funds. During and after the loan application process, XPV and Limnia learned that these loan programs were being run for the benefit of politically-connected insiders. For example, DOE provided application assistance to Tesla and Fisker that it refused to provide to XPV and Limnia (and others), and then large taxpayer-funded loans. A member of Tesla's board, who was also a bundler during President Obama's campaigns, was on a key DOE advisory board, and another bundler who was a Tesla investor and advisor had a primary role in the DOE's Loan Program Office. In addition, individuals tied to Fisker had made large donations to the Obama campaign and other Democratic causes. Also, there were emails suggesting that the DOE's review of a loan applicant was sped up as a result of pressure from then-House Majority Leader Steny Hoyer; that the White House made an effort to encourage DOE to hasten review of another loan application; and that DOE bent its own rules to play favorites. CoA also [relied upon](#) two Government Accountability Office reports about these programs that highlighted the potential for abuse.

Judge Ketanji Brown Jackson on the United States District Court for the District of Columbia agreed with CoA, ruling that Limnia has adequately alleged that the DOE's denials of Limnia's ATVM Loan Program and LG Program applications were the result of arbitrary and capricious agency action in violation of the APA.

Judge Jackson has thereby allowed Limnia's claims to proceed. This is significant because prior to this ruling, no court had ever held that cronyism or political favoritism could result in a grant or loan program being administered in an arbitrary and capricious manner.

Cause of Action Executive Director Dan Epstein issued the following statement on the ruling:

"When politicians and agencies allow companies to purchase government access, the basic foundation of our free market economy is compromised. For the first time, a federal district court has confirmed there is a legal remedy when cronyism influences federal administrative discretionary spending. 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."

Tags: [Cronyism](#), [Department of Energy](#)