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U.S. Department of Energy
Before the
Senate Committee on Appropriations
Subcommittee on Energy and Water

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Mr. Chairman and members of the Committee, I am pleased to be before you today to present the Department of Energy's Loan Guarantee Program Office (LGPO) fiscal year (FY) 2009 budget proposal and program update. The LGPO administers the federal loan guarantee program that was authorized for Title XVII of the Energy Policy Act of 2005 (EPAct 2005). Under this program, DOE may issue loan guarantees for innovative energy technology projects that avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases, and have a reasonable prospect of repaying the principal and interest on their debt obligations.

I am happy to inform you that significant progress on this program has been made over the past year. Let me quickly review with you some salient milestones. A year ago this week, two very experienced individuals were detailed from the U.S. Treasury Department to help lead the effort of evaluating a total of 143 pre-applicants seeking an invitation to submit full applications for loan guarantees. The 143 pre-applicants resulted from the initial solicitation of the program which officially closed on December 31, 2006. Supported by contractors, over the course of last summer the pre-applicants underwent a rigorous technical and financial review in accordance with criteria set forth by the Department of Energy's Credit Review Board (CRB), the governing board for the program. Coincidental with this activity, I was hired and began as a top priority the immediate staffing of the office with permanent federal employees. In the way of background, I have over 35 years of project finance experience, predominantly in energy, independent power and heavy infrastructure industries. I have spent the past ten years with the Federal Government's Overseas Private Investment Corporation (OPIC) as a Director of Loan Origination, which provided me with significant experience working under the Federal Credit Reform Act of 1990.

On October 4, 2007, DOE achieved two major milestones. DOE announced the release of its final regulations implementing the Title XVII EPAct 2005. These regulations marked a significant step forward and were the result of a rigorous review and evaluation of federal credit policy, public comments received on the notice of proposed rulemaking and analysis by DOE. The provisions of the final regulations have provided greater flexibility in the structuring of transactions as compared to the Guidelines originally published in August 2006, including the ability to provide guarantees up to 100% of one or more debt instruments employed in eligible projects. Simultaneously, the Department announced that 16 projects from the 143 pre-applications submitted in response to DOE's

August 2006 initial solicitation would be invited to submit full applications for a loan guarantee.

Pursuant to those invitations, pre-screening conferences were conducted with the 16 pre-applicants during the months of December 2007 and January 2008 to provide the LGPO updates on the respective projects as well as to inform the project sponsors of the policies and procedures to be followed in preparing and submitting full applications. All 16 of the pre-applicants have indicated a desire to submit full applications and are currently in the process of preparing their applications in compliance with the requirements of Title XVII program regulations. We expect that the first applications will be submitted to DOE this month through the Department's electronic data submission system, and the balance of the applications are expected to be received in an evenly distributed progression over the next several months. To date, the CRB has not established a firm deadline by which the 16 applications must be filed but the CRB may do so in the future. A prodigious amount of work has been completed to formulate and write policies and procedures for the application process; to establish the electronic data submission system for receipt of applications and supporting documents; to install requisite accounting systems and procedures for the office; and to develop a model for determining the credit subsidy cost of loan guarantees for projects that receive Title XVII loan guarantees.

The LGPO has worked aggressively to assemble a staff of highly qualified project finance experts with significant experience in the private sector as well as in government working under the Federal Credit Reform Act of 1990 closing other federal loan guarantees. In accordance with the FY 2008 budget, the plan is to fulfill organizational staffing for a total of 16 federal full time equivalent (FTE) employees by September 2008 augmented by six to ten contractors. This organization is sufficient to perform the credit underwriting and due diligence process associated with the 16 projects invited to submit full applications, as well as to issue new solicitations within the next year. The schedule for hiring additional staff will be undertaken in close coordination with the requirements for managing the new solicitations and the processing of subsequent applications.

FISCAL YEAR 2009 BUDGET REQUEST

The Department requests $19.9 million in funding in FY 2009 for administrative expenses to operate the LGPO and for support personnel and associated costs. This request essentially doubles the size of the office, over the FY 2008 appropriation, to support continued processing and then monitoring of loan guarantees that may be issued in response to the August 2006 solicitation, as well as the execution of new solicitations to be released this year. This request will be offset by fee collections from project sponsors in the same amount, as authorized both by EPAct 2005 and the Department's implementing regulations.

In the Committee Report accompanying the Consolidated Appropriations Act, 2008, Congress stated the Department should issue no more than $38.5 billion in loan guarantees under the Title XVII program before the end of FY 2009. Pursuant to the Act, the budgetary authority provided by the Act to issue loan guarantees is available only until September 30, 2009. DOE's FY 2009 budget request seeks to extend that budget authority through FY 2010 for all projects other than advanced nuclear power facilities and through FY 2011 for advanced nuclear power facilities. This extension is necessitated by long development lead times for completing all of the steps preceding the issuance of loan guarantees for major energy projects. Of the total loan guarantee amounts made available by Congress and identified in the FY 2009 budget request, $20.0 billion will be available through FY 2010 to support projects such as Uranium Enrichment, Coal Based Power, Advanced Coal Gasification, Renewables, and Electricity Delivery. The remaining $18.5 billion will be available through FY 2011 to support nuclear power facilities. The $38.5 billion total is in addition to the $4.0 billion in authority provided in FY 2007 under P.L. 110-5.

FY 2008 AND FY 2009 SOLICITATION IMPLEMENTATION PLAN

The Consolidated Appropriations Act, 2008 requires that at least 45 days prior to the execution of a new loan guarantee solicitation, DOE must submit a loan guarantee implementation plan to the Appropriations Committee of both houses of Congress. The implementation plan must define award levels and eligible technologies. DOE is in the process of preparing such an implementation plan. The Department plans to submit the plan to the Committees on Appropriations later this month.

CONCLUSION

In conclusion, I would like to emphasize the following points:

We understand the role and objectives of the Title XVII loan guarantee program. We are not a research and development program nor are we early stage venture capital providers. We issue loan guarantees to help fund the advanced stages of projects that are designed to take pilot and demonstration projects to full commercial viability. We, in conjunction with the Department's Program Offices, will seek innovation in eligible projects as well as environmental benefits, and a reasonable assurance of repayment of our guaranteed loans, in order to bring advances into the market enabling others to replicate and to expand these technologies with full participation of the private markets.

Mitigating financial risk to taxpayers is of utmost importance to Secretary Bodman and to the LGPO in implementing the Title XVII program. A number of measures are being taken to ensure risks are properly mitigated for each project prior to approval of a loan guarantee. First, the due diligence process includes a thorough investigation and analysis of each project's financial, technical, and legal strengths and weaknesses as well as all identifiable risks. In addition to the underwriting expertise of the LGPO staff, each project will be reviewed in consultation with independent engineering consultants. Finally, in addition to taking a significant equity stake in a project, each project sponsor will also be required to pay to the Federal Government the credit subsidy cost to offset the risks associated with the DOE's issuance of the loan guarantee.

The LGPO, when evaluating the eligibility of projects for loan guarantees, and throughout the process of negotiating terms and conditions with eligible applicants, will give due consideration to the technological and commercial maturity of each project in its development cycle. For that purpose, the LGPO will draw upon technical appraisals from experts both within and outside DOE.

Over the past 12 months, a remarkable amount of work has been accomplished. Based on my experience at OPIC and my familiarity with loan guarantee programs at other agencies, I can tell you that the Department has moved very quickly in making the Title XVII program operational. I know there has been some Congressional frustration with the pace of activity, but we have sought to move as quickly as possible while ensuring the technical and fiscal soundness of the program. We are continuing to recruit additional qualified staff to finalize the credit subsidy model, as well as to institute comprehensive policies and procedures to initiate the application and due diligence process. Finally, we are developing state of the art accounting and processing systems that will allow the LGPO to monitor and manage the loans over the life of the projects.

I appreciate the opportunity to appear before you today. I will be happy to take any questions that the members of the Committee may have.