

DAN BURTON, INDIANA
JOHN L. MICA, FLORIDA
TODD RUSSELL PLATTS, PENNSYLVANIA
MICHAEL R. TURNER, OHIO
PATRICK MCHENRY, NORTH CAROLINA
JIM JORDAN, OHIO
JASON CHAFFETZ, UTAH
CONNIE MACK, FLORIDA
TIM WALBERG, MICHIGAN
JAMES LANKFORD, OKLAHOMA
JUSTIN AMASH, MICHIGAN
ANN MARIE BUERKLE, NEW YORK
PAUL A. GOSAR, D.D.S., ARIZONA
RAUL R. LABRADOR, IDAHO
PATRICK MEEHAN, PENNSYLVANIA
SCOTT DESJARLAIS, M.D., TENNESSEE
JOE WALSH, ILLINOIS
TREY GOWDY, SOUTH CAROLINA
DENNIS A. ROSS, FLORIDA
FRANK C. GUINTA, NEW HAMPSHIRE
BLAKE FARENTHOLD, TEXAS
MIKE KELLY, PENNSYLVANIA

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051

<http://oversight.house.gov>

August 8, 2012

EDOLPHUS TOWNS, NEW YORK
CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
DENNIS J. KUCINICH, OHIO
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
STEPHEN F. LYNCH, MASSACHUSETTS
JIM COOPER, TENNESSEE
GERALD E. CONNOLLY, VIRGINIA
MIKE QUIGLEY, ILLINOIS
DANNY K. DAVIS, ILLINOIS
BRUCE L. BRALEY, IOWA
PETER WELCH, VERMONT
JOHN A. YARMUTH, KENTUCKY
CHRISTOPHER S. MURPHY, CONNECTICUT
JACKIE SPEIER, CALIFORNIA

LAWRENCE J. BRADY
STAFF DIRECTOR

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The Committee on Oversight and Government Reform has obtained documents which raise questions about how your interactions with business leaders at political events affected decisions to give billions of taxpayer dollars in loan guarantees to green energy companies through the Department of Energy's (DOE) 1705 Loan Guarantee Program. The failure of several companies that received loans under the program, including Solyndra's August 2011 bankruptcy, led to the loss of hundreds of millions of dollars in taxpayer funds.¹ The newly-obtained documents show that senior members of the Administration were aware of substantial risks to taxpayers and objected to the way the funds were being distributed. They were overruled.

So that we can better understand the extent of your involvement in the loan program, and whether you or your senior staff authorized the expenditure of additional taxpayer funds despite objections from your senior advisors and cabinet officials, we request additional documents related to the 1705 Loan Guarantee Program.

Documents show that 1705 Loan Guarantee Program loan guarantees were made against the advice of your top economic advisors.

On June 16, 2011, Jonathan Silver, a political appointee who was Director of the DOE's Loan Program Office, and Peter O'Rourke, another DOE senior official, exchanged e-mails about an inter-agency meeting in which the terms of a potential loan guarantee were debated.² Silver used his Yahoo! account to e-mail O'Rourke at his Gmail address. Silver wrote:

[Secretary of Energy Steven] Chu is right not to gloat publicly, but, the full deal going forward minus a year, is a close [sic] to an annihilation of the economic team's position as you could possibly hope for. Its [sic] actually [then-White House Chief of Staff Bill] [D]aley giving them a fig

¹ H. Comm. on Oversight and Gov't Reform Majority Staff Report, *The Department of Energy's Disastrous Management of Loan Guarantee Programs*, 112th Cong. (Mar. 20, 2012).

² E-mail from Peter O'Rourke to Jonathan Silver (Jun. 16, 2011).

leaf. Think about it. Let's do some serious gloating when I get back. Total victory.³

O'Rourke replied:

Yeah, even more so given that [Treasury Secretary Timothy] Geithner chimed in. Kind of nuts that Chu defeated Treas Sec, OMB head, and NEC head.⁴

O'Rourke's e-mail creates the appearance that Secretary Geithner, former Office of Management and Budget (OMB) Director Jacob Lew, and National Economic Council (NEC) Director Gene Sperling - your most senior economic advisors - were aligned in opposition to DOE's proposal for structuring the terms of a potential loan guarantee. According to Silver, they were "defeated" by Secretary Chu. The American people have a right to know who adjudicated that dispute and what factors led to that decision.

Documents show that Secretary Chu made you aware of objections to 1705 Loan Guarantee Program loans from senior economic advisors and career staff.

Documents show that eight days later, you requested a briefing on the Loan Guarantee Program. On June 24, 2011, DOE Chief of Staff Brandon Hurlbut e-mailed Secretary Chu a draft version of slides to be presented to you at an upcoming daily economic briefing.⁵ In an e-mail to Secretary Chu, Hurlbut wrote:

Attached are the draft slides for the daily economic briefing with the President on Monday where you will discuss the status of LPO [Loan Programs Office]. The WH was very direct about what should be included in the slides so we don't have much flexibility.⁶

* * *

The President actually hears about [the loan guarantee program] because at official events and political events he interacts with business community and Congressional members – many of them have some affiliation or interest in the numerous [loan guarantee] applications [DOE has] received that involve substantial funds.⁷

While you have previously indicated that loan guarantee program decisions were made within the Department of Energy, "based on their best judgment about what would make sense,"

³ E-mail from Jonathan Silver to Peter O'Rourke (Jun. 16, 2011).

⁴ E-mail from Peter O'Rourke to Jonathan Silver (Jun. 16, 2011).

⁵ E-mail from Brandon Hurlbut to Steven Chu (Jun. 24, 2011).

⁶ *Id.*

⁷ *Id.*

documents indicate some key decisions were made by the White House and that you requested a briefing on the program.⁸

Secretary Chu was not satisfied with the draft version of the presentation. He argued that it did not adequately reflect “interagency angst” about the loans.⁹ He responded to Hurlbut the same day:

This is missing important information: what could have been improved, why did the loans take so long, and why was there so much interagency angst. Below is the “blunt, truthful” version:

We need to tell the President the truth, as we see it. We need to also present the other side’s point of view as fairly as possible.

1. Treasury, and often OMB felt that the all the allowed [sic] subsidies, when added together, permitted to loan applicants too large a ROI. (‘Unjust enrichment’). We could not agree on even the underlying assumptions of how much a subsidy was worth. Give one example of a deal that we could not agree on and the particulars of that deal.
2. Many times, they felt that a ‘better deal’ could have been brokered by DOE and asked us to re-negotiate.
3. I heard that OMB assigned very few people to review the loans. Would they acknowledge that?
4. Throughout the loan program, DOE was asked to respond to multiple inquiries on virtually all loans, amounting to thousands of pages of questions. Many times they specifically refused to have in-person briefings.
5. Other agencies would sometimes argue that a particular loan is ‘not in the spirit of the Recovery Act.’
6. Principles [sic] in OMB and especially Treasury would often times rely on lower level staffers – e.g. acting deputy assistant secretary – and back them without understanding the details of the loan. The staffers would cite numerous initial objections, and as we explained the loan, their objections shifted to other reasons. Throughout the process, they believed that [sic] were taking “principled stands.”¹⁰

Secretary Chu’s e-mail to Hurlbut creates the appearance that during the June 27, 2011, daily economic briefing, he made you aware of disagreement among your senior advisors and

⁸ See e.g., Press Conference with President Obama, October 6, 2011. Available at: http://www.washingtonpost.com/politics/2011/10/06/gIQAkHOQL_print.html

⁹ E-mail from Steven Chu to Brandon Hurlbut (Jun. 24, 2011).

¹⁰ E-mail from Steven Chu to Brandon Hurlbut (Jun. 24, 2011). (emphasis in original)

objections from political and career staff at OMB and Treasury about the wisdom of various loan guarantees. After June 27, 2011, the DOE granted loan guarantees for 16 new projects. More than \$10 billion taxpayer dollars were put at risk.¹¹

Documents show that your personal interest in the Cape Wind offshore wind farm may have created pressure on career officials to approve the project.

According to Hurlbut, on June 27, 2011, you were also briefed on two specific projects which had requested taxpayer support, including the Cape Wind project.¹² Your personal interest in Cape Wind was well-known at the Department of Energy. On June 16, 2011, Silver used his Yahoo! account to e-mail O'Rourke at his Gmail address. He wrote, "[G]et cape wind done by sept 30. That's more important to the president."¹³

The Committee found that the Federal Aviation Administration ("FAA") approved the Cape Wind project despite safety concerns. On numerous occasions, FAA officials stated in e-mail that they were aware of the "politics" of the decision and that Cape Wind "was being moved by politics."¹⁴ On April 1, 2011, Angela Havens, Manager of the FAA Operations Support Center in Boston, e-mailed a manager in Washington, D.C. to request information related to the "political implications associated with the Cape Wind project."¹⁵ One month later, Richard Hastings, FAA's Eastern Service Area, Program and Requirements Terminal Team Manager, presented a slideshow that identified the "Political Implications" of the Cape Wind project.¹⁶ In addition to describing political apprehension about refusing to approve Cape Wind, a slide in the presentation stated, "The Secretary of the Interior has approved this project. . . . The Administration is under pressure to promote green energy production."¹⁷

Silver's e-mail of June 16, 2011, along with Havens' e-mail and Hastings's presentation, create the appearance that your perceived personal desire to see the Cape Wind project move forward may have led to political pressure on FAA officials to approve the project.

The American people have a right to know the level of involvement you and other senior White House officials had in the loan guarantee program. We request that you direct the White House Counsel's Office to produce the following information to the Committee:

1. A full and complete explanation of your involvement in the 1705 Loan Guarantee Program;

¹¹ "Our Projects," Loan Programs Office, U.S. Department of Energy. *Available at:* https://lpo.energy.gov/?page_id=45.

¹² E-mail from Brandon Hurlbut to Steven Chu (Jun. 24, 2011).

¹³ E-mail from Jonathan Silver to Peter O'Rourke (Jun. 16, 2011).

¹⁴ *See, e.g.*, e-mail from Elena Marinelli, Operations Engineering, FAA, to Conchita Watts, Operations Support Center, FAA (Jan. 30, 2009); e-mail from Frank Stahler, FAA, to Dave Dell, FAA, and Ernest Shirley, FAA (Aug. 7, 2010).

¹⁵ E-mail from Angela Havens to Sheri Edgett-Baron, Manager, Obstruction Evaluation Group, FAA (Apr. 1, 2010).

¹⁶ Nantucket Sound Wind Farm Proposal (Cape Wind), FAA (May 3, 2010).

¹⁷ *Id.*

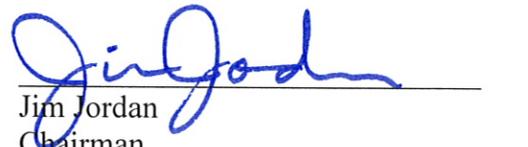
2. A list of all individuals you met with at "official" and "political" events where you discussed specific loan guarantee projects;
3. A list of all loan guarantee projects that were discussed at these events;
4. All documents and communications referring or relating to the 1705 Loan Guarantee Program; and
5. Any document or communication referring or relating to the 1705 Loan Guarantee Program sent or received by White House staff using a non-government account that was forwarded to an official government e-mail address or printed and saved for the purpose of complying with the Presidential Records Act or Federal Records Act.

Please provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on August 21, 2012. When producing documents to the Committee, please deliver separate production sets to both the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

Sincerely,



Darrell Issa
Chairman



Jim Jordan
Chairman
Subcommittee on
Regulatory Affairs, Stimulus Oversight
and Government Spending



Trey Gowdy
Chairman
Subcommittee on Health Care,
District of Columbia, Census, and the National Archives

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform

The Honorable Dennis Kucinich, Ranking Minority Member
Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending

The Honorable Danny Davis
Subcommittee on Health Care, District of Columbia, Census, and the National Archives