September 8, 2020

The Honorable Eddie Bernice Johnson, Chair
House Committee on Science, Space and Technology
2306 Rayburn House Office Building
Washington DC 20510

The Honorable Frank Lucas, Ranking Member
House Committee on Science, Space and Technology
2405 Rayburn House Office Building
Washington, DC 20515

The Honorable Conor Lamb, Chair
Subcommittee on Energy
1224 Longworth House Office Building
Washington DC 20510

The Honorable Randy Weber, Ranking Member
Subcommittee on Energy
107 Cannon House Office Building
Washington, DC 20510

Dear Chairmen Johnson and Lamb and Ranking Members Lucas and Weber:

I am writing on behalf of the Clean Energy Business Network in response to the House Committee on Science, Space and Technology's (HSST) call for stakeholder input on the draft *DOE Loan Programs Revitalization Act,* which would reauthorize and strengthen DOE's Title 17 Innovative Loan Guarantee program and Advanced Technology Vehicle Manufacturing Loan program. Thank you for your work on this important legislation and other energy innovation bills currently pending before Congress.

The Clean Energy Business Network serves as the small business voice for the clean energy economy. Our membership spans more than 4,000 small businesses working across a diverse range of clean energy technologies in all 50 U.S. states. We write to provide a suggested addition to make DOE loans more accessible to small businesses.

The DOE Loan Programs Office has served as a successful model for providing access to debt capital for first-of-a-kind projects and other high-impact energy-related ventures in a way that private lenders often can't or won't. The LPO portfolio has issued a $30 billion of loans, loan guarantees, and conditional commitments that have successfully leveraged more than $50 billion in total project investment, with only 2.7 percent losses.[1]

Unfortunately, due to the complex and rigorous application, due diligence, and legal process associated with these loans, LPO does not currently serve as a useful source of funding for small businesses or smaller-scale demonstration projects. In fact, the smallest LPO loan issued to date has been for $43 million.[2] Other programs geared toward small businesses, such as the Advanced Research Projects Agency-Energy (ARPA-E), Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs, have been critical in promoting breakthroughs in cutting-edge technologies by smaller firms. However, these programs bring technology to a point where it is near-ready for commercialization, and then entrepreneurs often face a final valley of death in financing demonstration/proof of concept projects and/or iterative R&D with early customers—the exact problem LPO was founded to address.

Addressing this gap in working capital and demonstration project finance would bolster the nation's innovation ecosystem and enhance our global competitiveness. Additionally, it would ensure a greater taxpayer return on investment by ensuring that technologies that have been developed with federal grants eventually reach the market and create high-paying jobs and tax revenues. It would also fuel a critical economic engine for small businesses, which comprise 99 percent of U.S. companies and employ 47.5 percent of American private-sector workers.[3]

[1] https://www.energy.gov/lpo/portfolio
[2] https://www.energy.gov/sites/prod/files/2020/04/f73/DOE-LPO-APSR-2019-FINAL.pdf
[3] https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf

The draft *DOE Loan Programs Revitalization Act* would help improve small business access to these programs by appropriating funds to help the DOE waive credit subsidy costs for Title 17 loans and application costs for both Title 17 and ATVM, along with allowing applicants to meet up to 10% of the equity cost of a project from other Federal sources.

However, we recommend some additional measures to enable smaller loan amounts (up to $50 million) to support demonstration or manufacturing projects by small businesses. Our proposal would call upon the DOE to leverage the financing mechanisms established by LPO–in coordination with the small business resources typically exercised by ARPA-E, SBIR, STTR, and the Small Business Administration–to expand access to small businesses. Should this legislation be enacted, we stand committed to working with the Department of Energy to support stakeholder input on from small businesses, lenders, and other finance providers to guide implementation. Precedent exists for expanding access to the LPO portfolio, as seen with the addition of the Tribal Loan Guarantee Program in 2018.[4]

If feasible, we would recommend that you consider adding a new section or expanding Section 103 (h) (Interagency Coordination) to include language to the effect of the following proposal, applicable to both Title 17 and ATVM:

"SECTION ___. SMALL BUSINESS LOANS

The Secretary shall ensure at least 3.65 percent of loan authority for Title XVII and ATVM is used to support demonstration, commercialization, manufacturing, and scaling of early-stage technologies by small businesses.

Eligible uses may include demonstration projects, iterative research and development with early adopters, manufacturing, or other working capital needed to help scale early-stage technologies.

Eligible recipients may include small businesses (as defined by Small Business Administration standards), or any clients (including government or non-government) committed to providing a work order or Memorandum of Understanding to work with a small business on a demonstration or manufacturing project.

In implementing this subsection, the Secretary shall coordinate internally establish practices to streamline application procedures and project due diligence for smaller loan amounts (up to $50 million) in order to make these loans less burdensome for small businesses.

The Secretary shall coordinate internally among the Loan Programs Office, Small Business Innovation Research program, and Advanced Research Projects Agency-Energy, and externally with the Small Business Administration to implement this subsection. The Secretary may transfer appropriated funds internally within other programs or externally to the Small Business Administration as needed to support administration of this program."

Additionally, even with the appropriations you are providing to waive credit subsidy requirements, we have seen that such waivers may not be granted without explicit direction to consider this option.

While $3.3 billion in subsidy costs have been paid out by the program to date, there is still $4.2 billion remaining,[5] implying an assumed default rate of roughly 24 percent for the remaining $17.7 billion in loan authority—roughly in line with the historical average default rate for CCC/C rated companies. However, at this time, the DOE Loan Program Office

[4] https://www.energy.gov/lpo/articles/loan-programs-office-seeking-input-tribal-energy-loan-guarantee-program
[5] https://www.everycrsreport.com/files/20150115_R42064_ed11f93cc3484a18c54def305e767ef962a8d3b9.pdf

discourages companies with any contractual market risk from applying to the program – even applicants in a position to receive a B/B+/BB credit rating. While LPO must be discerning when it evaluates applications, aversion to even the slightest market risk is contrary to the intent of the program. In addition to expanding the ATVM Program's authority, it is critical to address this diversion from programmatic intent.

Therefore, we support the inclusion of additional language to clarify the definition of reasonable prospect for repayment for both the Title XVII and ATVM program, as follows:

(a) DEFINITIONS.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is amended by adding at the end the following:

''(6) REASONABLE PROSPECT OF REPAYMENT

(A) In general

The term "reasonable prospect of repayment" means that there is a reasonable prospect that Borrower will be able to repay the Guaranteed Obligations (including interest) according to their terms based upon a comprehensive evaluation of the proposed project, including but not limited to the strength of a project's contractual terms for its project, the overall financial strength of the Borrower at the time of loan close, the financial strength of the Borrower's Project Sponsors and investors, market projections from reputable sources, and other financial metrics relied upon by the private lending community and nationally recognized credit rating agencies.

(B) Inclusions

The term ''reasonable prospect of repayment'' does not solely rely upon the Borrower's ability to obtain fixed-price long-term contracts for the full tenor of the loan.

"Reasonable prospect of repayment" should be interpreted to mean a credit subsidy costs of up to 25% of eligible loan project costs.

Thank you for your consideration of our recommendations.

Sincerely,

Lynn Abramson
President, Clean Energy Business Network