



The Secretary of Energy
Washington, D.C. 20585

February 15, 2008

The Honorable John D. Dingell
Chairman, Committee on
Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515-6015

Dear Mr. Chairman:

This is in response to your letter of February 6, 2008, concerning the Department's Global Initiatives for Proliferation Prevention (GIPP) program.

Please be assured that I share the concerns expressed in your letter about Iran's nuclear program. As you know, I and other United States Government officials have communicated our concerns on this subject to the Russian Government on numerous occasions. Consistent with those concerns, Russia has taken steps to strengthen the nonproliferation arrangements associated with Bushehr, a facility under International Atomic Energy Agency safeguards. Those arrangements include long-term nuclear fuel supply and take-back of spent fuel. Furthermore, to prevent U.S. resources from assisting countries of proliferation concern, the Department undertakes each GIPP scientist engagement project only after thorough interagency vetting, a process designed to ensure full compliance with U.S. nonproliferation requirements.

The enclosed memorandum to me from William Ostendorff, Principal Deputy Administrator of the Department's National Nuclear Security Administration, provides answers to the seven questions on pages 3-4 of your letter. A response involving classified information will be forwarded separately, as will responses and documents requested on pages 4-5 of the letter.

As the Department takes steps to implement recommendations contained in the recent Government Accountability Office review of GIPP, we will also take into account the concerns raised in your letter.



I look forward to working with you on this important matter. Should you have further questions, please contact me or Lisa E. Epifani, Assistant Secretary for Congressional and Intergovernmental Affairs at (202) 586-5450.

Sincerely,

A handwritten signature in black ink that reads "Samuel W. Bodman". The signature is written in a cursive style with a large, stylized initial "S".

Samuel W. Bodman

Enclosure

cc: The Honorable Joe Barton
Ranking Member



Department of Energy
National Nuclear Security Administration
Washington, DC 20585

February 15, 2008

OFFICE OF THE ADMINISTRATOR

MEMORANDUM TO THE SECRETARY

FROM: WILLIAM C. OSTENDORFF
PRINCIPAL DEPUTY ADMINISTRATOR

WCO, Ostendorff

SUBJECT: FEBRUARY 6, 2008, LETTER TO THE SECRETARY
FROM HOUSE ENERGY AND COMMERCE
COMMITTEE CHAIRMAN JOHN DINGELL AND
SUBCOMMITTEE CHAIRMAN BART STUPAK RE:
THE DEPARTMENT'S GLOBAL INITIATIVES FOR
PROLIFERATION PREVENTION PROGRAM

Question #1: Does DOE policy allow U.S. funding of scientists at Russian institutes when these institutes are also working on projects related to the Iranian nuclear program?

Program guidance for the Global Initiatives for Proliferation Prevention (GIPP) program, which was previously provided to the Committee, requires that all GIPP project proposals be vetted through an interagency process to determine whether there are proliferation concerns associated with the projects or the entities carrying out project work. No project involving entities subject to sanctions under U.S. law is eligible for approval. Specifically, GIPP program guidance directs that all project proposals require "a review among the various [Department of Energy/National Nuclear Security Administration] Program Offices and U.S. Government agencies for a full evaluation in terms of congruence with U.S. policy, nonproliferation impact and program coordination." This process involves the Departments of State and Defense, the Department of Energy's export control office, and the intelligence community. There have been occasions in which projects were rejected based on proliferation concerns. (See the response to Question #5 below.)

Projects that require a U.S. export license are subject to additional review by the appropriate U.S. interagency committees. The procedures for such review are prescribed by relevant U.S. regulations.

Question #2: Please explain how non-proliferation goals are advanced through the support of scientists and/or institutes that are working on nuclear projects with a country of proliferation concern.



Engagement of Russian scientists with expertise in weapons of mass destruction has been an element of the U.S. Government's nonproliferation agenda since the end of the Cold War, and has consistently enjoyed bipartisan support in Congress and across administrations. It should be noted, for example, that Congress increased GIPP funding by \$10 million above the Administration's request in FY 2008.

In broad terms, scientist engagement diverts resources and expertise that might otherwise be available to support proliferation programs in countries of concern, and provides former weapons scientists with opportunities to pursue non-military work. Benefits also accrue through the relationships and trust established through collaborative commercial and civilian research projects, which in turn help foster communities of experts who cooperate with the United States to prevent proliferation.

The GIPP project review process is designed to screen for proliferation risk and ensure that neither U.S. funds nor other resources contribute to proliferation activities in countries of concern or involve entities subject to U.S. sanctions. Procedures and mechanisms are in place to ensure, as stated in GIPP program guidance, "congruence with U.S. policy, nonproliferation impact and program coordination." No program can guarantee 100 percent effectiveness in preventing activities of concern. Nonetheless, there should be no doubt that by directing an engaged institution or individual's time and capabilities toward a project that serves U.S. policy objectives, GIPP is advancing nonproliferation goals.

Question #3: Does DOE have an existing assessment or survey of which Russian institutes are working on Iranian nuclear program projects? If so, what is the date of this survey? Please provide the names of the individuals who prepared this document.

The response is classified and will be forwarded separately.

Question #4: Has DOE assessed whether work performed for Iran at GIPP-supported institutes is purely for peaceful purposes, and that materials, technology, and engineering are fully safeguarded? Please provide the names of the individuals who have or currently conduct this assessment.

A great deal of analysis of Iran's nuclear programs, including the Bushehr project, has been performed by U.S. Government agencies. (Further information is classified and will be provided to the Committee separately.)

While it would be strongly preferred that Russia not support Bushehr, it is also the case that the reactor is subject to International Atomic Energy Agency safeguards. Further, consistent with concerns raised by the U.S. Government, Russia agreed to apply additional nonproliferation measures, including provision for the long-term supply and take-back of spent nuclear fuel, eliminating any justification for

Iran to continue its pursuit of indigenous enrichment and reprocessing capabilities.

To ensure that GIPP projects do not contribute to prohibited activities or involve sanctioned entities, all proposals are reviewed by U.S. Government agencies for proliferation concerns. This process involves multiple layers of review.

As a first-layer review, the Department and national laboratory experts prepare technical assessments regarding the declared end-use, its significance to weapons of mass destruction development, and the risks of unauthorized diversion. The Department uses all available information, including relevant intelligence information. Evidence of transfers for non-peaceful purposes or involvement of sanctioned institutes and individuals would result in disapproval of a project proposal or, in the case of an approved project, restructuring or termination of the project, as appropriate. These reviews also judge whether a U.S. export license is required, particularly dual-use licenses, based upon either the caliber of the technology or information about the end-user.

As a second-layer review, in cases where a U.S. license is required, either the participating national laboratory or the U.S. industry partner must submit an export application, as stipulated in the project approval letter. Procedures for interagency review of export applications are prescribed by relevant U.S. regulations, and include review by export control offices in the Departments of Commerce, Defense, Energy and State.

Question #5: How does DOE ensure that no U.S. funds are being used to support institutes or scientists performing work on nuclear weapons programs for countries of proliferation concern, as proscribed by Section 3136(a) of the FY 2000 Defense Authorization Act?

GIPP uses both financial and program controls to implement the requirements of section 3136(a). Financial controls involve a fixed-price contracting mechanism, through which payments to participating Russian scientists are tied to specific deliverables. Overhead payments are made to supporting Russian institutes, but those overhead charges are limited to those needed for administration and execution of the contract, and are no more than 10 percent of each project's total cost in Russia. Overhead rates are determined by the contract and in accordance with GIPP program guidance.

Program controls involve a rigorous interagency review process to screen project proposals for proliferation and related concerns. As noted above, the review process includes the Departments of State and Defense, the intelligence community, and the Department of Energy's export control office. It also involves an interagency committee chaired by the State Department to review projects involving former chemical and biological weapons institutes in Russia and other former Soviet states. The committee checks project proposals against

Federal Register notices that list institutes sanctioned for violating U.S. law pertaining to illicit transfers of weapons of mass destruction technologies and lethal military equipment. Broad criteria for reviewing GIPP project proposals include foreign and defense policy concerns, export control concerns, and relevant U.S. sanctions. The interagency participants may make recommendations based on any one criterion or a combination of these criteria.

Several project proposals have been rejected as a result of the interagency review process, such as advanced mass-spectroscopic analysis of dangerous pathogens, electrochemical processes having potential chemical weapons applications, and microchip technology that might have had advanced conventional weapons applications. The number of rejected proposals is not large, however, due to self-policing by the national laboratories that develop and review project proposals. The national laboratories are important contributors to U.S. export control reviews: they are among the nation's experts on weapons applications of dual-use technologies and foreign proliferation programs. Participating national laboratories are also aware of Russian institutes and individuals subject to U.S. sanctions, and therefore formulate proposals accordingly. As projects are carried out, national laboratory representatives stay in close contact with Russian participants and, as stipulated in GIPP program guidance, are responsible for "monitoring projects throughout their life cycle and taking any corrective action, to include project termination, in order to maintain project and program integrity."

For proposals requiring an export license, projects undergo additional review by the appropriate interagency committees, using procedures set forth in relevant U.S. regulations. Procedures for use by the national laboratories can be found in the Department of Energy's "Guide for Technical Review of Export License Applications." Among other considerations, DOE experts assess the caliber of the technology and risks of diversion. Because GIPP projects normally involve technology flow *to* (*vice* from) the United States, export control licenses are often not required. In those instances where a license is required, the license application is reviewed by the appropriate U.S. interagency export control committee. A common condition of such licenses is no re-transfer of licensed technology or the commodity without prior U.S. consent.

Question #6: Please explain how DOE has verified that the engineering, design, training, and technologies being provided to Iran are not fungible, and do not have the potential for latent proliferation or dual use in other Iranian nuclear programs? Please provide the names of individuals who perform these assessments.

As noted above, various U.S. Government agencies have performed a great deal of analysis of Iran's nuclear program, including of the Bushehr project. Details of these analyses are classified and will be provided separately. It bears emphasizing that the United States has made its concerns related to Bushehr known to Russia. Russia's response has been positive, resulting in added steps to

improve safeguards and fuel service arrangements that significantly reduce proliferation risks.

It also bears emphasizing that GIPP projects undergo thorough review by U.S. agencies. The interagency process did not identify concerns of diversion relating to the two institutes identified in the Committee's letter of February 6, 2008: the Scientific Research Institute of Measuring Systems (NIIS) and the Federal Scientific and Industrial Center of Nuclear Machine Building. Accordingly, the interagency review determined that the GIPP project(s) involving these two entities did not pose a proliferation concern and otherwise complied with applicable nonproliferation requirements, qualifying for the assistance provided.

Question #7: Does DOE have a list of countries of proliferation concern as required in Section 3136(a) of the FY 2000 Defense Authorization Act? Please provide this list.

Neither the Director of Central Intelligence (as cited in section 3136(a) of the FY 2000 NDAA) nor any other element of the intelligence community has designated "countries of proliferation concern" for the purposes of the GIPP program. Nevertheless, as part of the GIPP project proposal screening process, the Department of Energy tracks all U.S. Government (USG) sanctions imposed on individuals, entities and foreign governments that engage in proliferation activities. Announcements of USG sanctions determinations are printed in the Federal Register, which maintains a complete listing of such determinations. Furthermore, all GIPP projects are vetted with the U.S. interagency participants, including the intelligence community, and reviewed for consistency with U.S. nonproliferation policy, U.S. export control regulations, and U.S. sanctions.