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Highlights

Highlights of GAO-07-798T, testimony before the Subcommittee on Energy and Air Quality, Committee on Energy and Commerce, House of Representatives

Why GAO Did This Study

The Energy Policy Act of 2005 (EPAct 05) authorized the Department of Energy (DOE) to establish a loan guarantee program (LGP) for projects intended to, decrease air pollutants or man-made greenhouse gases, employ new or significantly better technologies, and have a reasonable prospect of repayment. The Federal Credit Reform Act requires appropriated budget authority for LGP costs before loans can be made. In 2006, DOE solicited preapplications to the LGP, stating it intended to issue up to $2 billion in guarantees. It also issued guidelines for these proposals, stating that borrowers would ultimately pay for all costs, but funding was authorized.

This testimony is based on GAO's February 2007 report (*Department of Energy: Key Steps Needed to Help Ensure the Success of the New Loan Guarantee Program*, GAO-07-339R) and its April 20, 2007 legal opinion (B-308715). GAO discusses the sources and use of funds for the LGP in fiscal years 2006 and 2007; DOE's authority to implement the LGP and to fund the program before Congress had appropriated funding; extent to which the LGP could result in a financial risk to the taxpayer; and steps DOE has taken to ensure that the LGP will be well managed.

www.gao.gov/cgi-bin/getrpt?GAO-07-798T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact James C. Cosgrove at 202.512.7029.

April 24, 2007

DEPARTMENT OF ENERGY

Observations on Actions to Implement the New Loan Guarantee Program for Innovative Technologies

What GAO Found

In fiscal year 2006, and continuing through October 2006, DOE used about $503,000 from three separate appropriation accounts to fund LGP activities. DOE used these funds for the salaries of three staff detailed to the LGP office and for contracts to support the program. DOE stopped most LGP development activities at the end of October, but according to the deputy general counsel for energy policy, he and others continued to work on the program by, for example, preparing a notice of proposed rulemaking and reviewing pre-applications for completeness. At the time of GAO's review, DOE officials said they were awaiting appropriations before taking additional implementation steps.

DOE should not have begun implementation of the LGP without a specific appropriation. Nevertheless, DOE did begin implementation, and its approach to the LGP raised serious questions about whether this program and its financial risks would be well managed.

LGP guidelines call for borrowers to be charged fees to cover all program costs, but the program could result in substantial financial costs to the taxpayer if DOE underestimates administrative costs, such as evaluating applications. While DOE must recover these costs, it had not developed a plan to determine how it would do so at the time of GAO's review. Appropriated funds may be necessary to cover shortfalls. The other type of program cost is the subsidy cost: the estimated net present value of the long-term cost to the federal government of guaranteeing the loans over the entire period that the loans are outstanding, excluding administrative costs. DOE will have to estimate this cost to determine the fees charged borrowers, but it had no policies or procedures for doing so. Estimating this cost could be difficult because the program targets innovative energy technologies, and loan performance could depend heavily on future economic conditions, including energy prices, which are hard to predict accurately. Under federal law, shortfalls in subsidy costs are funded by a permanent indefinite appropriation, not through the annual appropriations process.

GAO recommended key steps that DOE did not take but that would help ensure that the program is well managed. The Revised Continuing Appropriations Resolution for Fiscal Year 2007 directed DOE to implement most of GAO's recommendations by issuing final regulations before awarding loan guarantees. These regulations are to include (1) programmatic, technical, and financial factors for selecting projects for loan guarantees; (2) policies and procedures for selecting and monitoring lenders and loan performance, and (3) any other policies or information necessary to implement the LGP. DOE was also instructed to complete these regulations within 6 months of the appropriations act.