July 2008

Highlights

Highlights of GAO-08-750, a report to congressional committees

DEPARTMENT OF ENERGY

New Loan Guarantee Program Should Complete Activities Necessary for Effective and Accountable Program Management

Why GAO Did This Study

Title XVII of the Energy Policy Act of 2005 established DOE's loan guarantee program (LGP) for innovative energy projects that should decrease air pollutants or greenhouse gases and that have a reasonable prospect of repayment. For fiscal years 2008 and 2009, Congress authorized the use of borrower fees to pay the costs of loan guarantees through Title XVII's "borrower pays" option, under which DOE will limit loan guarantees to $38.5 billion. Congress mandated that GAO review DOE's progress in implementing the LGP. GAO assessed DOE's progress in (1) issuing final regulations and (2) taking actions to help ensure that the program is managed effectively and to maintain accountability. GAO also assessed how inherent risks due to the nature of the LGP may affect DOE's ability to achieve intended program outcomes. GAO analyzed DOE's regulations, guidance, and program documents and files; reviewed Title XVII; and interviewed DOE officials.

What GAO Recommends

GAO suggests Congress consider limiting loan guarantee commitments DOE can make until it has put adequate controls in place. In this regard, GAO is recommending actions by DOE to help ensure that the LGP will be well managed. DOE disagreed with two recommendations, indicated it has largely accomplished four, and disagreed with the matter for congressional consideration. GAO reaffirms its recommendations and matter for congressional consideration.

To view the full product, including the scope and methodology, click on GAO-08-750. For more information, contact Frank Rusco at (202) 512-3841 or ruscof@gao.gov.

What GAO Found

In October 2007, DOE issued regulations that govern the LGP and include requirements for application submissions, project evaluation factors, and lender eligibility and servicing requirements. The regulations also generally address requirements set forth in applicable guidance. Some key aspects of the initial LGP guidelines were revised in the regulations to help make the program more attractive to lenders and potentially reduce financing costs for projects. For example, the maximum loan guarantee percentage increased from 80 to 100 percent of the loan. In addition, the regulations define equity as "cash contributed by the borrowers," but DOE officials told us they also plan to consider certain non-cash contributions, such as land, as equity. As a result, applicants may not fully understand the program's equity requirements.

DOE is not well positioned to manage the LGP effectively and maintain accountability because it has not completed a number of key management and internal control activities. As a result, DOE may not be able to process applications efficiently and effectively, although it has begun to do so. DOE has not sufficiently determined the resources it will need or completed detailed policies, criteria, and procedures for evaluating applications, identifying eligible lenders, monitoring loans and lenders, estimating program costs, or accounting for the program—key steps that GAO recommended DOE take over a year ago. DOE also has not established key measures to use in evaluating program progress.

Risks inherent to the LGP will make it difficult for DOE to estimate subsidy costs, which could lead to financial losses and may introduce biases in the projects that receive guarantees. The nature and characteristics of the LGP and uncertain future economic conditions increase the difficulty in estimating the LGP's subsidy costs. Because the LGP targets innovative technologies and the projects will have unique characteristics—varying in size, technology, and experience of the project sponsor—evaluating the risks of individual projects will be complicated and could result in misestimates. The likelihood that DOE will misestimate costs, along with the practice of charging fees to cover the estimated costs, may lead to biases in the projects that receive guarantees. Borrowers who believe DOE has underestimated costs and has consequently set fees that are less than the risks of the projects are the most likely to accept guarantees. To the extent that DOE underestimates the costs and does not collect sufficient fees from borrowers to cover the full costs, taxpayers will ultimately bear the costs of shortfalls. Even if DOE's estimates of subsidy costs are reasonably accurate, some borrowers may not pursue a guarantee because they perceive the fee to be too high relative to the benefits of the guarantee, affecting the project's financial viability. To the extent that this financial viability is not distributed evenly across the technologies targeted by Title XVII, projects in DOE's portfolio may not represent the range of technologies targeted by the program.