**The Committee on Energy and Commerce**

**Internal Memorandum**

March 15, 2011

TO: Members, Subcommittee on Oversight and Investigation

FROM: Subcommittee on Oversight and Investigations Staff

RE: Hearing on "Oversight of DOE Recovery Act Spending"

On Thursday, March 17, 2011, at 1:30 PM in room 2322 of the Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing entitled "Oversight of DOE Recovery Act Spending." This hearing will provide an update of the Government Accountability Office (GAO) and the Department of Energy Office of Inspector General's (OIG) oversight of DOE spending under the American Reinvestment and Recovery Act (ARRA or Recovery Act). In particular, the Subcommittee will examine the current status of DOE Recovery Act projects and lessons learned through their implementation.

## I. DISCUSSION

### *A. Department of Energy Recovery Act Provisions*

The American Recovery and Reinvestment Act was signed into law by President Obama on February 17, 2009. The Act listed five purposes, including "to preserve and create jobs," "to assist those impacted by the recession," "to provide investments needed to increase economic efficiency," "to invest in . . . environmental protection and other infrastructure that will provide long-term economic benefits," and "to stabilize state and local government budgets."

The Recovery Act appropriated $41.7 billion for the Department of Energy, $35.2 billion of which was designated for programs and activities.[1] According to DOE's Recovery Act website (www.energy.gov/recovery/pillars.htm), the funds are divided among the following activities: "Energy Efficiency" received the largest portion of Recovery Act dollars at $12.0 billion, followed by "Environmental Cleanup" at $6.0 billion; "Modernizing the Electric Grid" at

[1] DOE initially received $45.2 billion from the Recovery Act, but $3.5 billion originally designated for the DOE Loan Guarantee Program was transferred to the Cash for Clunkers Program ($2 billion) and Education Jobs Fund ($1.5 billion). Of the $41.7 billion currently available to DOE, $6.5 billion of that number is borrowing authority. *See* GAO Testimony, *Recovery Act: Factors Affecting the Department of Energy's Program Implementation*, GAO-10-497T (Washington, DC: Mar. 4, 2010).

$4.5 billion; “Carbon Capture and Storage” at $3.4 billion; “Transportation” at $2.85 billion; “Science and Innovation” at $2.0 billion; and “Renewable Energy” at $1.64 billion.

DOE’s Recovery Act website includes charts showing the amounts allocated to Recovery Act awardees. The most recent report, dated March 11, 2011, shows that DOE has received $35.21 billion in Recovery Act appropriations for allocation to awardees. Of that number, DOE reports that $33.090 billion has been awarded or obligated, and $12.501 billion has been spent. To get a sense of DOE’s progress, GAO testified in March 2010 that DOE had obligated $25.7 billion (70 percent) and spent $2.5 billion (7 percent) of its Recovery Act appropriations.

### *B. GAO Oversight of DOE Recovery Act Projects*

The Recovery Act required GAO to conduct bimonthly reviews on the use of Recovery Act funds by states and localities. To date, GAO has completed seven such reviews, the last of which was issued on September 20, 2010. With regard to DOE, these reviews have included analysis of three of the Recovery Act programs relating to energy efficiency: Weatherization Assistance, the Energy Efficiency and Conservation Block Grant (EECBG), and the State Energy Program (SEP). GAO has also issued a separate report focusing on Mississippi’s Weatherization Assistance Program.

GAO has reported on the DOE Weatherization Assistance Program in a number of its bimonthly reviews of the Recovery Act. Under the Act, the program received $5 billion, a significant increase over the approximate $225 million per year the Weatherization Assistance Program had received in previous years. Of the $5 billion appropriated by the Recovery Act, $4.73 billion was obligated to states, while DOE retained 5 percent for program expenses. At the outset, DOE planned to weatherize 586,015 homes over a three-year period using Recovery Act funds, a fivefold increase from the 104,000 homes weatherized through the program in 2009.[2] As of June 30, 2010, GAO reported that, according to DOE officials, 166,000 homes had been weatherized, or 29 percent of the 570,000 homes DOE now has planned for weatherization.[3] The most recent DOE report, dated January 18, 2011, stated that as of November 2010, 300,972 homes had been weatherized using Recovery Act funds.

In the GAO reports on weatherization, the primary problem noted was the delay in distributing Recovery Act funds. Due to the massive increase in program funding, both DOE and states lacked the infrastructure and staff to manage the money. The Recovery Act also required that the Weatherization Assistance Program be subject to the Davis-Bacon wage requirements for the first time, and calculating the appropriate wage in each county caused additional delay. Moreover, GAO has found that states’ progress in weatherizing homes varies widely as does the strength of their internal controls and monitoring programs.[4]

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[2] *See* DOE OIG, *Special Report: Progress in Implementing the Department of Energy’s Weatherization Assistance Program Under the American Recovery and Reinvestment Act*, OAS-RA-10-04 (Washington, DC: Feb. 2010) at 1.
[3] GAO, *Recovery Act: Opportunities to Improve Management and Strengthen Accountability over States’ and Localities’ Uses of Funds*, GAO-10-999 (Washington, DC: September 2010).
[4] *See* GAO-10-497T at 4-5; *see also* GAO-10-999 at 101-106.

The EECBG program provides $3.2 billion in grants to develop projects to improve energy efficiency and reduce energy use. GAO reported in September 2010 that, of the $3.2 billion appropriated, $2.8 billion has been allocated to about 2,150 state, local, and tribal governments; however, those governments had spent only 11 percent of the allocation by that time.[5] According to GAO, while some Recovery Act recipients found DOE guidance to be helpful and timely, others found the program guidance to be "unclear and overwhelming" and "ever-changing."[6] GAO did note, though, that DOE is working with states and localities to set specific spending targets and identify other measures to accelerate spending as well as assist recipients, including adding staff and simplifying guidance. Although the EECBG funds could be used for a number of purposes, GAO found that the bulk of it was used for energy-efficient retrofits, financial incentive programs, and building and facilities.[7]

GAO has also reported on the State Energy Program (SEP). This program received $3.1 billion under the Recovery Act to be administered by DOE and spent by states over a three-year period. Prior to the Recovery Act, the SEP received about $50 million per year. According to the DOE website, the SEP is a partnership between DOE and the states, the purpose of which is to "provide leadership to maximize the benefits of energy efficiency and renewable energy through communications and outreach activities, technology deployment, and accessing new partnerships and resources." DOE provides formula grants to states to accomplish these goals, and claims that every dollar in federal spending for this program produces $7.23 in energy cost savings and $3.58 in additional private sector investment in energy projects. DOE also claims that the SEP produces $256 million annually in cost savings and reduces annual carbon emissions by 719,000 metric tons.

In its most recent bimonthly review reporting on the SEP, GAO notes that although recipients are making progress in obligating their SEP funds (as of August 2010, 27 states had obligated at least 80 percent of their funds, and 24 states had obligated at least 50 percent), there is a "limited amount of actual state data on spending trends." In addition, while 75 percent of the funds had been obligated by recipients as of August 2010, only 10.8 percent, or $332 million of the $2.31 billion, had been spent.[8] GAO reported that data available in August 2010 showed that 50 percent of SEP funds went to buildings (energy efficient building code, revolving loan programs); 30 percent to electric power and renewable energy (wind turbines and solar generation, for example); and 8 percent to industry (energy audits, water conservation, and waste reduction). Many of the problems GAO found with implementation of the SEP using Recovery Act funds are similar to those found in the EECBG: confusion about obligation timetables; incomplete or untimely guidance; lack of staff at infrastructure or state levels to assist in distributing funding; and difficulty meeting reporting requirements. GAO notes that DOE is working to address these issues.

In addition to the bimonthly reviews, GAO has produced reports examining individual DOE programs that received Recovery Act funding. Those reports focused on the Loan

[5] *See* GAO-10-999 at 81.
[6] *See id.* at 84.
[7] *See id.* at 82.
[8] *See* GAO-10-999 at 93.

Guarantee Program[9] and the Office of Environmental Management, which monitors funding for environmental cleanup.

Regarding environmental cleanup, GAO conducted ongoing monitoring of spending and completed a report in July 2010 entitled: "Recovery Act: Most DOE Cleanup Projects Appear to Be Meeting Cost and Schedule Targets, but Assessing Impact of Spending Remains a Challenge."[10] The report was initially requested by Ranking Member Joe Barton and then Subcommittee on Oversight and Investigations Ranking Member Greg Walden in March 2009. (Representative Michael Burgess and Committee on Appropriations Subcommittee on Energy and Water Development leadership subsequently joined the request.) The findings of this report will be a topic for the hearing.

### *C. DOE OIG Oversight of DOE Recovery Act Projects*

The DOE Office of Inspector General received $15 million in Recovery Act funds for use in assisting the department in implementing the Act. According to the Fiscal Year 2011 OIG Recovery Act Plan Overview, OIG's goals include "maximizing the performance and effectiveness" of Recovery Act activities; preventing and detecting fraud involving the misuse of Recovery Act funds; and identifying "opportunities for cost-savings" in Recovery Act-related programs.

The OIG's Fiscal Year 2011 Recovery Act Work Plan sets forth a number of program areas that the office intends to review. A copy of that plan can be found here: http://www.ig.energy.gov/documents/DOE_OIG_Recovery_Act_Work_Plan_(FY_2011).pdf

To date, the OIG has issued 47 publications, including Audit Reports, Audit Letter Reports, and Special Inquiries on Recovery-Act related programs. The Audit Reports and Audit Letters cover a wide range of topics related to DOE Recovery Act programs. With regard to Recovery Act-related programs, the DOE OIG has issued the greatest number of reports on the Weatherization Assistance Program (8), followed by the State Energy Program (5). The DOE OIG also issued nine other Audit Reports or Letter Reports on other DOE programs, such as the Loan Guarantee Program, the Energy Efficiency and Conservation Block Grant Program, the State Energy Efficient Appliance Rebate Program, and the Energy Frontier Research Centers. Individual projects or recipients who have received Recovery Act funding have been the subject of twelve DOE OIG audits, for example, the Environmental Cleanup Projects at the Y-12 National Security Complex. DOE's own management, accounting, and reporting practices with regard to the implementation of the Recovery Act were the subject of twelve other OIG audits. A complete list of the reports can be found here: http://www.ig.energy.gov/recovery_reports.htm

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[9] The Loan Guarantee Program is currently the subject of an ongoing investigation by the Subcommittee on Oversight and Investigations. A copy of the most recent GAO report on the Loan Guarantee Program can be found here: http://www.gao.gov/new.items/d10627.pdf

[10] A copy of the GAO report on the Office of Environmental Management's cleanup projects can be found here: http://www.gao.gov/new.items/d10784.pdf

## II. WITNESSES

Three witnesses will testify at the hearing:

Mr. Franklin Rusco will testify on behalf of the Government Accountability Office. Mr. Rusco is a Director on GAO's Natural Resources and Environment Team.

Mr. Gregory H. Friedman, Inspector General at the Department of Energy, will also testify. Mr. Friedman was confirmed by the Senate as Inspector General of DOE in 1998. He has been with the DOE Inspector General's office since 1982.

Finally, testifying on behalf of DOE is Steve Isakowitz, DOE Chief Financial Officer. Accompanying Mr. Isakowitz will be Ines Triay, Assistant Secretary for Environmental Management, and Steve Chalk, Chief Operating Officer for Energy Efficiency and Renewable Energy. Mr. Isakowitz was confimed by the U.S. Senate in June 2007. He previously held positions at the Office of Management and Budget (OMB) and the National Aeronautics and Space Administration (NASA).

## III. ISSUES

The following issues will be examined at the hearing:

- What has been the scope of the oversight work conducted by the DOE OIG and GAO? What oversight work remains to be done?
- What issues have affected DOE's ability to implement Recovery Act projects? Have those issues been resolved? What challenges remain?
- To date, what has been the impact of DOE Recovery Act-related spending?

## IV. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Peter Spencer (peter.spencer@mail.house.gov) or Karen Christian (karen.christian@mail.house.gov) of the Subcommittee on Oversight and Investigations staff at (202) 225-2927.