



## Department of Energy

Washington, DC 20585

October 22, 2013

The Honorable Tim Murphy  
Chairman  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

On July 24, 2013, Daniel B. Poneman, Deputy Secretary, testified regarding "Department of Energy Oversight: What is Necessary to Improve Project Management and Mission Performance?"

Enclosed are the answers to 14 questions that were submitted by Representative Butterfield and you.

Also, the three Inserts for the Record that were requested by Representative Johnson and you, are enclosed to complete the hearing record.

If we can be of further assistance, please have your staff contact our Congressional Hearing Coordinator, Lillian Owen at (202) 586-2031.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher E. Davis".

Christopher E. Davis

Deputy Assistant Secretary

for Congressional Affairs

Congressional and Intergovernmental Affairs

Enclosures

cc: The Honorable Diana DeGette, Ranking Member



## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q1. The White House announced it would nominate NASA chief financial officer Beth Robinson for the newly created position of Under Secretary for Management and Performance to oversee DOE contracts. A Washington Times article from July 23, 2013 detailed how cost overruns at NASA grew six-fold during Ms. Robinson's tenure. In light of this news report, what assurances can you provide that the new Undersecretary for Management and Performance will be able to manage DOE spending on contracts effectively?**

A1. Dr. Robinson has extensive experience in procurement and project management, including experience and insight from her time at NASA. The Department of Energy has improved the effectiveness and efficiency of the Department's mission support functions and the management of major capital projects and contracts and will continue to do so under Elizabeth Robinson's leadership if she is confirmed as Under Secretary for Management and Performance. Reducing the cost of doing business within the Department and improving project management will enable us to reallocate resources toward our mission objectives in national security, science and energy.

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q2. Renewables such as wind and solar account for less than 4% of power, but received almost a billion dollars in direct research money. At the same time, the Administration proposed spending much less than half that amount on clean fossil fuel technologies even though fossil energy produces more than 80% of the power in the United States. Under Secretary Moniz, will fossil energy research and development still remain a priority for and the Department of Energy?**

A2. Fossil energy research and development is a priority for the Department of Energy. As Dr. Moniz stated, in his July 30 visit to the National Energy Technology Laboratory this year, "We are about preparing our future so that all of our fuels have an important role." To support this, the Administration has committed nearly \$6 billion to clean coal technologies, including carbon capture and sequestration and is preparing to issue an \$8 billion loan guarantee solicitation for advanced fossil energy technologies.

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q3. Please describe the research into carbon capture sequestration and clean coal technologies DOE conducts through the National Energy Technology Laboratory and what plans DOE has for continuing or increasing research on this front?**

A3. DOE's research and development portfolio includes a diverse set of technologies and pathways that are focused on capturing CO<sub>2</sub> emissions and storing them permanently or utilizing them in a beneficial manner, and developing advanced technologies to more efficiently and cleanly burn fossil fuels for power generation while facilitating carbon capture and storage. These technologies include post-, pre-, and oxy-combustion carbon capture; carbon storage development such as small- and large-scale injection tests, monitoring technologies, simulation and risk assessment tools, and carbon utilization options; gasification, turbines, and fuel cells for advanced power generation; and crosscutting activities such as computational modeling and materials development. The National Energy Technology Laboratory's (NETL) scientists and engineers conduct research in each of these areas to support programmatic goals and objectives while also conducting cutting edge R&D that identifies new opportunities and technologies to utilize our nation's fossil energy resources cleanly, efficiently, and in a cost-effective manner. DOE plans to continue R&D in these areas as part of the President's "all of the above" energy strategy as well as the Climate Action Plan.

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q4. Please provide an update on the progress of contracts awarded through the Research Partnership to Secure Energy for America (RPSEA), as well as the financial report for RPSEA in FY2012, including but not limited to overhead and operational expenses.**

A.4 Over the past six years (2007 – present), over 150 projects have been awarded, 69 of which have been completed, and 81 are still active. RPSEA is currently reviewing proposals submitted in response to the 2012 Unconventional Resources Program request for proposals (RFP) and the 2012 Small Producers Program RFP. Selections are anticipated to be made in early October. RPSEA also has two 2012 Ultra-Deepwater Program RFPs open soliciting proposals for 17 technical areas. Selections from those RFPs are anticipated to be made in December/January.

Pursuant to the Energy Policy Act of 2005, a total of \$35.625 million was obligated to the RPSEA contract in FY12, of which \$3.75 million was for administrative/programmatic activities, and \$31.875 million for research activities. RPSEA received \$1 million of the \$3.75 million for administrative activities in December 2011, and received the remaining \$2.75 million on June 5, 2012. These funds were expended by RPSEA from January 2012 through January 2013. The FY12 research funds totaling \$31.875 million were obligated to the RPSEA contract on September 5, 2012. These funds have all been obligated to research subcontracts by RPSEA.

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q5. Please describe in detail the Department's participation in the interagency process(es) to develop social cost of carbon estimates, including when the process(es) were initiated, who was involved and who managed the process both at DOE and for the interagency group, and what records did DOE maintain to memorialize process deliberation and participation?**

A5. Staff at DOE provided technical input to the Interagency Working Group on the Social Cost of Carbon. The technical update to prior SCC estimates was conducted in order to ensure that DOE and other agencies incorporate the best available peer-reviewed information in evaluating the cost and benefits of rulemakings. For more information about this process, please refer to OIRA Administrator Howard Shelanski's July 18, 2012 testimony in front of the House Oversight and Government Reform Committee's Subcommittee on Energy Policy, Healthcare and Entitlements.

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

- Q6. During the hearing, you described mission support offices under the proposed restructuring, and noted that the Chief Financial Officer was not part of the new structure, but "above the fray, so to speak."**
- a. Does the CFO office have more mission support authority than the management office or the CIO, for example, under the new structure?**
  - b. What authority do these mission support offices have to tell program offices what to do when those offices operate under the authority of another Under Secretary?**
  - c. Explain why this does not create management problems by stove-piping or siloing certain mission support functions within DOE's management structure?**

A6a. The Office of the Chief Financial Officer works closely with the Office of the Under Secretary for Management and Performance and the other mission support functions of the Department on the full range of administrative and management issues, particularly insofar as there are budget and financial issues involved. The Office of the Chief Financial Officer's authority is not "more" or "less" than the other management offices, but rather focused on the particular areas of responsibility of the Chief Financial Officer function.

A6b. The Deputy Secretary remains the Chief Operating Officer of the Department. We fully anticipate that program offices across the Department, as well as the Offices of Under Secretary for Science and Energy and Under Secretary for National Nuclear Security Administration, will work with the Office of the Under Secretary for Management and Performance and the Office of the Deputy Secretary on the broad range of policy and implementation issues related to the mission support functions of the Department. The

Secretary and the Deputy Secretary retain the authority to establish department-wide policies and direct the implementation as necessary.

A6c. Rather than stovepiping the mission functions, the reorganization creates a structure in which all the mission support organizations are unified under the Office of the Under Secretary for Management and Performance and can cooperate and work together.

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q7. The Secretary is ultimately responsible and accountable for the various missions of the Department. Because of this, does it benefit the Secretary to have staff for certain department-wide functions to provide his eyes and ears (and voice) to ensure he can manage the department's various missions?**

**a. In the Department of Defense there is a management structure called functional componentcy, through which the office of the Secretary's mission support functions -- the CFO, CIO, Human Resources -- communicate with their functional equivalents in the various Defense Department components. Would DOE benefit from such a management approach across the agency, including the NNSA?**

**b. What are the limits or barriers to implementing such an approach?**

A7a. The mission support functions within Office of the Under Secretary for Management and Performance communicate and work on a regular basis with comparable components within DOE program offices, including the NNSA.

A7b. The NNSA Act limits the authority of non-NNSA personnel, including the mission support functions, to direct or exercise authority with regard to the NNSA. The NNSA Act does not, however, limit the ability of the mission support functions to work with the Secretary to establish policies that the Secretary has the authority to establish throughout the Department. The non-NNSA mission support functions communicate with their NNSA counterparts as these policies are developed and on a regular basis on the implementation of these policies and other matters.

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q8. To the extent program management of the national laboratories is the responsibility of different DOE offices, how do you ensure such management and oversight is performed consistently across DOE?**

**a. What office is responsible for ensuring consistent management attention to the lab contracts and contractors?**

**b. What will be the function of National Laboratory Operations Board and what role, if any, will this entity have concerning the development of consistent metrics for judging laboratory performance?**

A8. The National Laboratory Operations Board will report to the Office of the Under Secretary for Management and Performance and will include representatives from all of the program offices that oversee one or more of the national laboratories. Those program offices will continue to have the primary responsibility for the program direction and oversight of the laboratories. The National Laboratory Policy Council will serve to coordinate and develop consistent policies with regard to the Department of Energy's management of the laboratories. The National Laboratory Operations Board enables the Department to address administrative and operational issues affecting the laboratory system in a coordinated manner using an enterprise-wide approach. The development of consistent metrics for evaluating laboratory performance is a challenge that may be addressed at a policy level by the National Laboratory Policy Council and at an administrative level by the National Laboratory Operating Board.

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q9. In a January 2010 report, the Government Accountability Office recommended that, to better ensure DOE is able to develop high-quality project cost estimates, the Secretary of Energy should issue the department's cost-estimating policy and updated guidance of as soon as possible, and ensure that the policy requires that independent cost estimates (ICEs) be conducted for major projects at critical decision (CD) milestones CD-1, CD-2, and CD-3.**

**a. Explain whether DOE has issued a cost-estimating policy, whether it is standardized across the DOE enterprise, when it was issued, and whether ICEs have been or will be conducted at milestones CD-1, CD-2, and CD-3?**

A9. DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*, released on November 29, 2010, established cost estimating requirements for Independent Cost Reviews (ICRs) and Independent Cost Estimates (ICEs) at each of the Department's Critical Decision (CD) milestones for acquisition of capital assets across the Department, inclusive of the National Nuclear Security Administration. On May 9, 2011, the Department issued DOE Guide 413.3-21, *Cost Estimating Guide*, which establishes best practices for developing cost estimates by the contractors and project teams. Its purpose is to provide uniform guidance and best practices that describe the methods and procedures recommended for use at DOE in preparing cost estimates across all phases of the Department's capital asset acquisition process. DOE Order 413.3B and DOE Guide 413.3-21 are consistent with, and adopt observations, recommendations, guidance and best practices from GAO audit reports and GAO's *Cost Estimating and Assessment Guide* (e.g., the Twelve Steps of a High Quality Cost Estimating Process).

DOE Order 413.3B, in conjunction with P.L. 112-74 FY2012 Consolidated Appropriations Act, requires DOE's Office of Acquisition and Project Management to

conduct for capital asset projects with a cost of \$100M or greater an ICE or ICR at CD-1, Approve Alternative Selection and Cost Range, an ICE at CD-2, Approve Performance Baseline, and, an ICE at CD-3, Approve Start of Construction/Execution. ICEs have been conducted on a number of capital asset projects to include the National Nuclear Security Administration's Uranium Capability Replacement Project, the Office of Environmental Management's Salt Waste Processing Facility, and the Office of Science's **Linac Coherent Light Source II (LCLS II) Project.**

## QUESTIONS FROM REPRESENTATIVE TIM MURPHY

**Q10. Explain how DOE works with the U.S. Army Corp of Engineers (USACE) to conduct of independent cost reviews and estimates, and what if any barriers there are to increased use of USACE expertise to enhance DOE project oversight and management. In addition, what are DOE's plans to increase use of USACE independent cost estimating?**

A10. The DOE Office of Acquisition and Project Management (OAPM) has retained the US Army Corps of Engineers (USACE) and its cost estimating contractors to augment OAPM capabilities when appropriate for complex DOE nuclear processing plant projects. To mitigate potential barriers, OAPM and USACE signed a memorandum of understanding in 2012 to define this partnership. OAPM, which is responsible for conducting Independent Cost Reviews (ICRs) and Independent Cost Estimates (ICEs) within DOE, is comprised of a professional staff of engineers with extensive project management experience who are also accredited as Certified Cost Professionals by the Association for the Advancement of Cost Engineering International (AACEI). As a result, OAPM is fully capable of conducting credible and high-quality ICEs and ICRs augmented on an as-needed basis with cost estimators, schedulers, risk management specialists, and other subject matter experts obtained from OAPM contractors or USACE contractors (many of which are the same as the OAPM contractors).

## QUESTIONS FROM REPRESENTATIVE G.K. BUTTERFIELD

**Q1. We've seen a consistent and concerted effort to reduce discretionary non-defense spending, even at the detriment to agency missions and our constituents. Sequestration has negatively affected many agencies but significantly and indiscriminately cutting important, mission critical funding. How has sequester impacted the Department of Energy's ability to achieve its four mission areas of nuclear security, solving the Nation's energy challenges, advancing fundamental science, and environmental stewardship? In what ways has the sequester impacted the ability of DOE in terms of management and oversight?**

A1. Sequestration cut nearly \$1.9 billion from the Department of Energy's FY 2013 funding level. This cut reduces the ability of the Department to carry out its work, slows down work already in progress, results in contractor workforce impacts at multiple sites, and defers grants, contracts, and hiring to support planned work.

Over \$300 million was cut from programs supporting critical investments in scientific research and clean energy technologies, including funding for advanced computing systems, climate change research, next-generation manufacturing, fuel-efficient vehicles, renewable energy generation, advanced nuclear reactor designs, sustainable carbon capture technologies, and electric grid modernization and security. Over \$400 million was cut from environmental stewardship programs, resulting in waste retrieval and cleanup schedule delays at sites. Finally, over \$800 million was cut from the National Nuclear Security Administration programs supporting nuclear weapons stockpile stewardship, global nuclear nonproliferation activities, and submarine propulsion system design, resulting in schedule delays and potential cost overruns.

Sequestration has not had a significant impact on federal management and oversight.

## QUESTIONS FROM REPRESENTATIVE G.K. BUTTERFIELD

**Q2. Most recently, we saw drastic cuts to DOE funding in the Energy and Water appropriations bill, which passed the House with immense Democratic opposition. The bill cuts funding for FY 14 by 8 percent, and makes drastic cuts to important programs such as nuclear non-proliferation, defense-related environmental management activities, and renewable energy programs. Many of these cuts would be in areas that the GAO and Inspector General have identified need improvement, is that correct? How would these significant cuts to mission-critical programs impact the DOE's ability to make necessary improvements and fulfill the President's vision?**

A2. The House Energy and Water Appropriations Bill (H.R. 2609) underfunds critical investments in our energy and national security. Reductions in these areas will impact and could multiply issues that the GAO and Inspector General have identified as needing improvement. If enacted, the cuts included in H.R. 2609 will impact mission critical programs and national priorities.

The bill cuts funds that develop our American energy sources to build a clean and secure energy future and leaves US competitiveness at risk in new clean energy markets, such as advanced vehicles, advanced manufacturing, energy efficiency and domestic renewable energy. The bill reduces funding to DOE's Office of Energy Efficiency and Renewable Energy (EERE) by 73% from the request, severely limiting investments in innovative clean energy research and development and providing less weatherization assistance than needed to assist low-income households. Cuts to the Office of Electricity Delivery and Energy Reliability will slow efforts to modernize and secure the electricity grid and the ability to respond to energy emergencies. The bill reduces Advanced Research Projects

Agency-Energy (ARPA-E) funding by 87% compared to the request severely impacting funding to potentially transformative energy research. And, cuts to the Office of Science will eliminate all funding for new grants, likely lead to terminations of ongoing awards, and could reduce or cease operations at all major scientific user facilities. These reductions to DOE's science and energy programs would impact U.S. leadership in research and economic competitiveness.

Funding reductions to DOE will also impact the National Nuclear Security Administration increasing the risk of schedule delays for key components of the nation's nuclear strategy and limiting the ability for Naval Reactors to address current and emerging issues in the fleet. The bill delays the Spent Fuel Handling Recapitalization Project, potentially jeopardizing the operational availability of aircraft carriers and submarines while increasing the project's cost by \$335 million. Reductions to Weapons Activities will weaken facility operations, construction initiatives, and stockpile support activities, all of which directly support the President's nuclear strategy as expressed in the Nuclear Posture Review. If enacted, the bill will undercut DOE's ability to maintain the nuclear stockpile and cut essential national security efforts required to implement nuclear strategy and advance counter-proliferation objectives.

## QUESTIONS FROM REPRESENTATIVE G.K. BUTTERFIELD

**Q3. I applaud the Department of Energy and the President's ambitious vision for prioritizing climate change reduction and preparing our nuclear capabilities for the future. It is encouraging to see the emphasis on innovation while reorganizing to become more efficient. Under the new reorganization, there will now be a senior policy official dedicated to improving management on a full-time basis, is that correct?**

A3. Yes. The Department of Energy has established an Under Secretary for Management and Performance to improve project management and increase the effectiveness and efficiency of our mission support functions across the Department.

**Q4. Currently, 90 percent of the Department of Energy's budget of \$26 billion is being allocated to contractors. Will these consolidations improve oversight of contractors and help correct some of the issues raised by GAO and the IG?**

A4. Yes. The establishment of the Under Secretary for Management and Performance will allow greater oversight of contractors and improve project management and performance across the Department.

234  
235 having the data but making sure you have a system in place to  
236 have honest reassessments of that.

237           One other quick question in my time. In your testimony you  
238  
239 said that President laid out a commonsense plan to reduce the  
240 effects of climate change by cutting dangerous carbon pollution,  
241 as you put it, increasing the production of clean energy and  
242 doubling down on energy efficiency. I noticed the Department  
243 released a new rule for microwave oven efficiencies and included  
244 a calculation for the social cost of carbon, and I would like to  
245 know if the agency considered doing a formal notice and comment  
246 to the microwave rule before using this figure. Did anyone in  
247 your office participate in any discussions about this social  
248 cost of carbon before using it in the DOE microwave rule, and  
249 can you please submit to us emails and documents to help us  
250 understand why that was done.

251           Mr. {Poneman.} Mr. Chairman, I was present for some  
252 discussion of social costs of carbon. I was not--I would have  
253 to get back to you with details on how it related to that  
254 particular rule.

255           Mr. {Murphy.} That is something this committee is going to  
256 want to review in an open and scientific way.

257           Mr. {Poneman.} We would be very happy to supply that.

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258  
259 Ms. {Castor.} Thank you, Chairman Murphy.

260  
261 It is very important and a positive sign that the

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Staff at DOE provided technical input to the Interagency Working Group on the Social Cost of Carbon. The technical update to prior SCC estimates was conducted in order to ensure that DOE and other agencies incorporate the best available scientific, technical and economic information in evaluating the cost and benefits of rulemakings. For more information about this process, please refer to OIRA Administrator Howard Shelanski's July 18, 2012 testimony in front of the House Oversight and Government Reform Committee's Subcommittee on Energy Policy, Healthcare and Entitlements.

500  
501 portfolio was strong. That said, he had a number of very  
502 important practical suggestions in terms of transparency,  
503 accountability, customer servicing, portfolio management, and  
504 many of those have been implemented, point one. Point two, that  
505 included making sure we had very highly capable people in the  
506 positions. Point three, a lot of those people are very much  
507 focused on portfolio management, and there is a brand-new leader  
508 of the loan program office, and finally, in this reorganization,  
509 Secretary Moniz wants to make sure that the Credit Review Board  
510 itself, which sits above the Credit Committee, is strengthened  
511 so that we will have the ability in the normal kind of boardroom  
512 fashion of doing due diligence on transactions to make sure we  
513 bring those kinds of disciplines to bear.

514 Mr. {Griffith.} One of my concerns there was, it appeared  
515 that the legal counsel that was being given was seeing--and this  
516 is my interpretation, nobody ever said this--saw itself as  
517 trying to come up with a legal opinion to justify what the  
518 Department of Energy wanted to do as opposed to protecting the  
519 American taxpayers, and I would hope that the legal department  
520 would see as a part of their duty at the very least is to make  
521 sure that what they are doing is lawful because the laws that  
522 Congress pass are intended to protect American taxpayers, and  
523 the decision to subordinate cost \$170 million to the American  
524 taxpayers.

525  
526 Mr. {Poneman.} Congressman, I would have to dig back into  
527 the details to get the--I would just say my recollection of the  
528 legal advice received at the time was there was a higher chance  
529 of a higher recovery from a going concern than from a fire sale,  
530 and the question at the time that it was presented was whether  
531 subordination would meet the statutory requirement that the  
532 Secretary was obliged to seek the maximum recovery for the  
533 taxpayer. But we can obviously follow up on that.

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534 Mr. {Griffith.} I just wanted to know if it was still ongoing.  
535 I appreciate that. Thank you very much.

536 Back to you, Deputy Secretary. As a part of this, another  
537 issue has been brought to my attention, and I am not going to  
538 tell you I am well versed in it, but it does concern me, and  
539 that relates to the National Nuclear Security Administration and  
540 the National Security Complex and Pantex plant management  
541 contracts, and in that process, GAO has said that there was an  
542 upheld--they upheld a procurement protest. My concern on that  
543 is, is that apparently, according to a press report that has  
544 been brought to me, in three instances, the source selection  
545 authority at the 11th hour changed some of the criteria, and I  
546 know there are all these big companies jockeying for position,  
547 but at the 11th hours, three matters were changed and that  
548 changed who got the contract. On its face, that doesn't smell  
549 right to me. Are you all looking into that matter and trying to

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At the time of the restructuring, after thorough analysis, DOE concluded that the restructured terms - which would allow completion of the manufacturing facility - offered the greatest likelihood that the loan would be repaid, and was therefore in the best interests of taxpayers. Career officials in LPO, including the office's Chief Counsel, as well as attorneys in DOE's Office of General Counsel, reviewed the proposed restructuring thoroughly and concluded that it was permitted under Title XVII of EAct, as amended, 42 U.S.C. §§ 16511-16514.

## Attachment 2-Member Requests for the Record

### The Honorable Tim Murphy

*During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.*

**Q1. Did anyone in your office participate in any discussions about this social cost of carbon before using it in the DOE microwave rule, and can you please submit to us emails and documents to help us understand why that was done.**

A1. Staff at DOE provided technical input to the Interagency Working Group on the Social Cost of Carbon. The technical update to prior SCC estimates was conducted in order to ensure that DOE and other agencies incorporate the best available scientific, technical and economic information in evaluating the cost and benefits of rulemakings. For more information about this process, please refer to OIRA Administrator Howard Shelanski's July 18, 2012 testimony in front of the House Oversight and Government Reform Committee's Subcommittee on Energy Policy, Healthcare and Entitlements.