



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 22, 2011

The Honorable Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Stearns:

This responds to your letter of June 20, 2011, regarding the subcommittee's hearing scheduled for June 24, 2011, entitled "OMB's Role in the DOE Loan Guarantee Process."

Your letter asks for testimony at this hearing from Jeffrey Zients, Deputy Director for Management at the Office of Management and Budget (OMB). We did not receive your letter until Monday evening. As discussed with your staff and with you directly, Mr. Zients has agreed to appear before your subcommittee to address this matter. However, because of the unusually short notice afforded by your letter, we have asked you and your staff to work with us to find an alternate date and time for his testimony.

Your letter also incorporates the generalized document request contained in your earlier March 14, 2011 letter, without reference to any of the briefings and information we have already provided to subcommittee staff over the past three months, including the hundreds of pages of documents that we have made available for their review. As noted in greater detail below, we believe that this information has addressed directly all of the specific questions relating to the subject of your March 14 letter raised by subcommittee staff.

Your March 14 letter identified your interest in better understanding OMB's review and approval of the credit subsidy cost for the Solyndra guarantee. OMB's role in connection with the issuance of loan guarantees under section 503(a) of the Federal Credit Reform Act of 1990 (FCRA), as implemented by Part 185 of OMB Circular A-11, is to review and approve credit subsidy cost estimates by agencies. Under Circular A-11, "OMB has the final responsibility for determining subsidy estimates, in consultation with the agencies." Since receiving your letter, OMB has provided subcommittee staff with two briefings, detailed responses to each of their specific questions, and access to a range of documents that squarely answer these questions. This information has been in addition to the more than 20,000 pages that we understand the Department of Energy (DOE) has also provided to the subcommittee concerning this same transaction.

1. On April 4, OMB's Associate Director for Natural Resources, Energy, and Science, and its Assistant Director for Budget, provided subcommittee staff with a two-hour briefing that

explained OMB's role under the Federal Credit Reform Act and our A-11 Circular process, OMB's review of loan guarantees generally, and the Solyndra application in particular.

2. After this briefing, subcommittee staff requested copies of all the information about the proposed Solyndra loan guarantee application provided by DOE to OMB. OMB searched its files and provided this material, which included documents from as early as 2008, when DOE's review of Solyndra's proposal for a loan guarantee was already underway. These documents included materials about Solyndra later relied upon by OMB in reviewing DOE's proposed credit subsidy estimate: the initial credit subsidy estimate range provided by DOE in December 2008, two detailed independent financial analyses of the company prepared by Fitch in August 2008 and August 2009, three independent engineering reports assessing Solyndra's solar panel technology provided in January, February, and April 2009, the materials provided to the DOE credit committee on January 9, 2009, a description of the proposed terms and conditions for the transaction, and detailed presentations from DOE to OMB in January, March, and August 2009 summarizing the risks and factors to be considered.

3. Subsequently, subcommittee staff raised six questions and asked for specific additional documentation regarding the briefings that had been provided to OMB by DOE. OMB promptly provided detailed answers to these six questions, which included information about the dates and subjects of meetings between OMB and DOE in connection with review of the Solyndra transaction, and provided each of the specific documents requested.

4. OMB also provided subcommittee staff with information about the final credit subsidy cost for the Solyndra transaction, the apportionment of that cost, and how that cost was calculated. To assist staff in understanding the details of that calculation, OMB also made available for their review the actual cash flow estimates, including disbursements, payments, and default and recovery rate assumptions, underlying the credit subsidy score.

5. Subcommittee staff then requested information from OMB about the specific questions that it had asked DOE about its proposed credit subsidy cost, which was submitted to OMB in late August 2009, and whether that proposed cost was later changed prior to the final apportionment of the cost on September 2, 2009. In response to this request, OMB provided a second briefing. OMB made clear that the focus of this briefing would be to answer the questions posed by staff -- to identify and explain each of the questions raised by OMB with DOE during the course of its review process. At this briefing, OMB described -- and included corroborating documentary evidence of -- the six specific questions OMB asked DOE in light of OMB's review of the foregoing materials, the answers provided by DOE to OMB to those questions, OMB's request for further supplementation of those answers, OMB's recommendation concerning the proposed credit subsidy score in light of those answers, why and how OMB came to that recommendation, and documentation of the final apportionment.

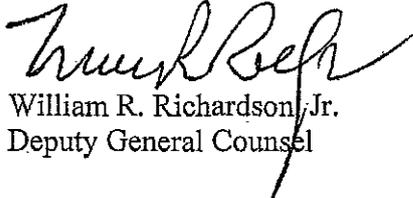
In short, OMB has provided the subcommittee with the information on which OMB relied in conducting its review, the nature of OMB's questions raised in light of its review, the responses provided by DOE in response to those questions, and the decision reached in light of those responses. As you know, OMB has had substantial concerns about disclosing the deliberations upon which it regularly relies in working with DOE (among many other agencies)

on review and approval under the Federal Credit Reform Act, in the absence of any particularized showing of need. It is well recognized that such disclosures run a substantial risk of deterring Executive Branch personnel from engaging in the kinds of exchanges of views that are critical to the effective discharge of their responsibilities. However, in an effort to accommodate staff's specific questions on this matter, we agreed to describe (and to provide documentary evidence of) the details of this review process. After review of the detailed information provided, the staff has not raised any further questions about OMB's analysis and determination.

Based on our prior conversations with subcommittee staff, we had understood that providing such documentary evidence of OMB's credit subsidy review process could enable them to complete their inquiry if such evidence corroborated OMB's account. In light of the foregoing concerns, OMB has not undertaken to provide any additional deliberative material beyond that necessary to corroborate the nature of its questions raised with DOE about the proposed credit subsidy cost, and it has explained to staff that the additional e-mail communications between OMB and DOE relating to these questions do not identify any additional questions that have not previously been documented. However, we would be prepared to provide a further briefing that would afford staff an opportunity to review such additional e-mails between OMB and DOE that address any such questions.

As noted above, OMB believes it has provided the subcommittee with a very detailed and specific response concerning the nature and scope of OMB's review and approval of the credit subsidy cost for Solyndra as described in your March 14 letter, and that will enable the subcommittee to conduct appropriate oversight with respect to OMB's discharge of its statutory role in the DOE loan guarantee process. We continue to believe in the importance of this accommodation process, by which the Executive Branch and the committees of Congress can cooperate in addressing each other's legitimate needs and concerns. To this end, we have consistently emphasized OMB's willingness to work with the subcommittee to answer any specific questions it may have in connection with OMB's role, in a way that also accommodates our concerns about preserving the confidentiality of the deliberations of staff within the Executive Office of the President. We would be pleased to discuss further any such questions and how OMB might address them.

Sincerely,



William R. Richardson, Jr.
Deputy General Counsel

cc: The Honorable Henry A. Waxman, Ranking Member

