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February 21, 2023

The Honorable David Turk
Deputy Secretary
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

Dear Deputy Secretary Turk,

As you recall, during the February 2, 2023, Senate Energy and Natural Resources Committee (Committee) hearing, I, along with other Committee members, asked you about the Department of Energy's (DOE) vetting of Infrastructure, Investment, and Jobs Act (IIJA) award recipients.

In your responses to the Committee's questions, you indicated that the awards that were announced for each company were preliminary or conditional in nature. You stated that before the Department disburses any taxpayer funds to an award selectee, the Department goes through "a due diligence process" and "negotiate[s] an award." You emphasized that "no taxpayer funding is going to any of these companies yet."

This characterization, however, is at odds with the Department's statements related to the IIJA. A press release dated October 19, 2022, on the DOE website announces "the first set of projects *funded* by the President's Bipartisan Infrastructure Law to expand domestic manufacturing of batteries for electric vehicles (EVs) and the electrical grid and for materials and components currently imported from other countries." The press release continues with, "the 20 companies *will receive* a combined \$2.8 billion."

The fact sheet accompanying this announcement further states, "*Funded* through \$2.8 billion from the Bipartisan Infrastructure Law, the portfolio of projects *will support* new and expanded commercial-scale domestic facilities to process lithium, graphite and other battery materials, manufacture components, and demonstrate new approaches, including manufacturing components from recycled materials." By all accounts, such language indicates that these awards are final and distributed.

The funding opportunity announcement (FOA) associated with these awards states that award negotiations will occur after selections are made. But at no point does the FOA suggest that DOE could pull the plug on an award as long as selectees are “responsive during award negotiations and meet negotiation deadlines.”

Companies and investors clearly believe award negotiations are a formality. They believe the Department’s award announcements are meaningful, as is evident by looking at the share prices of publicly traded companies selected for awards. Of the twenty companies selected for awards, share prices of those that were publicly traded averaged an increase of almost 14% between the day before and day of the Department’s respective award announcement.

It is clear the Department has misled shareholders investing in companies selected for IJA awards. Accordingly, it is imperative the Department adopts a more transparent approach in its communication of its award selections to the public. Additionally, the Department needs to be more thorough in its evaluation of applicants, their eligibility, and their association with foreign adversaries prior to award selection and announcement.

I ask that you provide answers to the following questions regarding DOE’s award selection process. Please provide thorough and thoughtful responses to these questions by March 10, 2023.

Sincerely,


John Barrasso, M.D.
Ranking Member

Questions for Deputy Secretary Turk

1. Do you agree the IJIA battery manufacturing awards announcement is misleading and suggests that the selected companies will receive funding?
2. Is it fair to companies and investors to announce an award and then not actually award funds?
3. For each project listed on the selection factsheet, when will final decisions regarding these awards be made?
 - a. When will funding be dispersed?
4. Explain the “due diligence” process that you stated is currently underway.
 - a. Why isn’t this process conducted before award announcements are made?
 - b. Please provide a detailed description of the award process, including who is involved, and copies of all Department policies and procedures pertaining to this process.
5. In the past 5 years, how many times has DOE announced an award and then revoked it after undergoing its “due diligence process” for award selectees?
 - a. Please provide an exhaustive list of respective entities that have had an award revoked and the reason for each revocation.
6. Did DOE consider ties to foreign adversaries when considering recipients?
 - a. If so, why was Microvast selected?
 - b. If not, why not?
 - c. If not, does DOE intend to consider ties to foreign countries during award negotiations?
 - d. What happens to awards in the case of companies who have been selected for awards, but have been discovered to have substantial ties concerning foreign ties?
 - e. Do you plan to go forward with the Microvast award?
7. Will you commit to not funding companies with substantial ties to the People’s Republic of China?