

**Congress of the United States**  
**Washington, DC 20515**

May 23, 2017

The Honorable Rick Perry  
Secretary of Energy  
U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585-1615

Dear Secretary Perry:

We write today to request additional information regarding why prior year appropriated funds are not being obligated to the Department of Energy's (DOE's) Advanced Research Projects Agency-Energy (ARPA-E) projects, particularly those that have already been competitively selected for awards.

On April 26, 2017, Representative Eddie Bernice Johnson, the Ranking Member of the House Committee on Science, Space, and Technology, wrote to you to inquire why ARPA-E initiated a "no contract action" order in which funds were not being disbursed for already approved grants. The May 4, 2017 response from Department of Energy Chief of Staff Brian McCormack failed to answer her question directly. Instead the response obliquely referenced that funding grants and cooperative agreements were being reviewed to ensure they are consistent with fiscal year (FY) 2018 administration priorities and that "the Department continues to honor commitments for funds previously obligated for financial assistance awards."

First and foremost, it should be noted that appropriations for FY 2016 and FY 2017 are not retroactively reviewable under the lens of FY 2018 priorities. Appropriations for FY2016 and FY2017 are already approved by Congress and signed into law by the President. Federal agencies are then required by law to direct appropriations to the programs for which they are dedicated. In both FY 2016 and FY 2017, Congress explicitly appropriated funds to the Department of Energy to fulfill ARPA-E's legally authorized mission.

Congress appropriated \$291 million for ARPA-E in FY2016, over \$70 million of which remains unobligated despite awardees already being selected and several Department-issued public announcements. We request that you immediately release all of these FY 2016 funds to these competitively selected project awardees.

Further, we have concerns about the review process for the pending and future funding announcements and determinations described in Mr. McCormack's memorandum. While we understand new Administrations and agencies periodically re-evaluate programs, the process described by Mr. McCormack establishes DOE's Office of Management, which does not have

the technical expertise to intervene in or override a competitive grant selection process for advanced research projects, as the prime location for review of these awards. The memorandum indicates that Mr. McCormack's office will, at some unspecified date in the future and after some unspecified review process, notify Departmental Heads when the pending funds under review are "ready for release." This lack of accountability and transparency should be rectified.

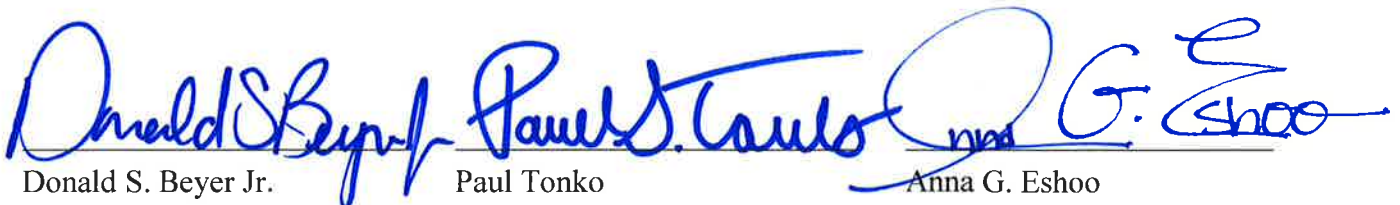
Agencies may not thwart the intent of Congress by withholding or impounding funds directed for a specific purpose. Inhibiting the flow of funds or interfering with the execution of appropriations in the manner directed by Congress is unlawful. This law, the Congressional Budget and Impoundment Control Act of 1974, was signed into law after President Richard Nixon's impoundment of appropriated funds.

In summary, we request the following:

1. The immediate release of all remaining FY 2016 funds for projects that have already been competitively selected, or, failing that, a date by which we can expect the full funding of all selected projects.
2. The timeline and criteria for the new review process at the DOE's Office of Management for pending and future Department funding.
3. The expected timeline for obligating FY 2017 ARPA-E funds.

Secretary Perry, you have previously stated that supporting ARPA-E is crucial to advancing America's energy economy. As you know, ARPA-E programs are vital to our leadership in energy innovation and maximizing our country's continuing efforts to develop clean energy technologies. Small businesses and other grant recipients who have already moved forward with their research projects, their staffing adjustments, and their procurement decisions did so in good faith. The withholding of anticipated funds will cause those companies and researchers unnecessary hardship and could inhibit their success. The Department of Energy should honor our country's desire and commitment to lead in this important sector and to support U.S. technology focused companies. We look forward to the Department updating us frequently regarding its progress in this regard.

Sincerely,

  
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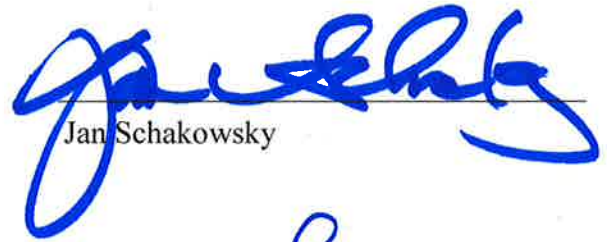
  
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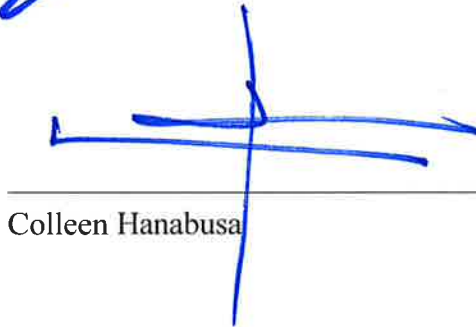
  
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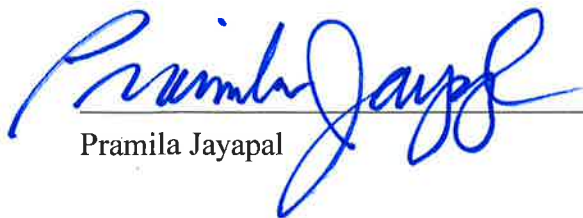
  
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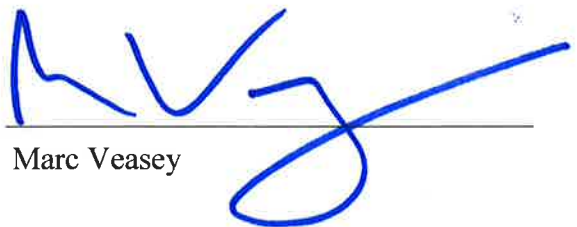
  
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