

United States Senate

WASHINGTON, DC 20510

May 16, 2017

The Honorable Rick Perry
Secretary
U.S. Department of Energy
1000 Independence Avenue SW
Washington, D.C. 20585

Dear Mr. Secretary:

We are deeply troubled by reports that the Department of Energy (DOE) has delayed awarding funds and, in some cases, is refusing to release funds altogether for various activities for which Congress has already provided appropriations. These actions not only ignore Congressional intent, but are explicitly prohibited by law.

On May 4, your Chief of Staff, Brian McCormack, sent a memorandum to heads of each Departmental element, halting all Funding Opportunity Announcements (FOAs) and Determinations of Non-Competitive Financial Assistance (DNFAs), if the funds have not yet been obligated, to allow for a review to “ensure that our financial assistance programs are consistent with Administration direction” as outlined in President Trump’s Fiscal Year 2018 Budget Blueprint. Each new President certainly has the right to influence the direction of the Executive Branch. However, the President cannot ignore statutory requirements or funding direction provided by appropriations legislation for Fiscal Years 2016 and 2017.

It appears that the Department may already be ignoring Congressional direction. We have heard from small businesses, universities, and research institutions, as well as media reports that the DOE has slowed down or frozen some of its essential research and development programs that promote American innovation, economic competitiveness, and cutting-edge science. We have also received reports that grants to states through DOE’s Weatherization Assistance Program and State Energy Program are being held inconsistent with Congressional direction.

Similar concerns have been raised regarding contracting delays for ARPA-E awards. Last year, ARPA-E announced several project awards, primarily funded with Fiscal Year 2016 appropriations, under numerous programs, including those focusing on automated vehicles, high-density liquid fuels, and datacenter efficiency. Despite the fact that your Department already publicly announced these awards, project awardees are now unable to finalize contracts with DOE due to a contracting hold. These contract holds at DOE are jeopardizing jobs and millions of dollars of investments. Additionally, reports of DOE universally denying no-cost time extensions threaten technological advancements and waste previously-spent taxpayer dollars if consideration of circumstances is denied for otherwise on track projects.

We have reason to believe the Department is similarly treating financial awards from other DOE offices, including the Office of Energy Efficiency & Renewable Energy, Loan Programs Office, and Office of Science.

The President's Fiscal Year 2018 Budget Blueprint proposes to cripple many key DOE activities that have made the Department a science and technology leader, accelerating innovation in energy, manufacturing, and nuclear security, and a critical partner to states through weatherization assistance and energy planning support. We can and will have the debate in Congress about the proper funding level for these important programs for Fiscal Year 2018 and beyond. But you have very limited authority to refuse to spend funds Congress has already previously appropriated. The Congressional Budget and Impoundment Control Act of 1974, as amended, sets out clear rules for the Executive Branch for delaying or withholding appropriated funds. We expect nothing less than DOE's full compliance with this law.

We ask that you report to us within 10 days the Department's plans for spending already appropriated funds and how the May 4 Memorandum is impacting DOE spending decisions.

Sincerely,



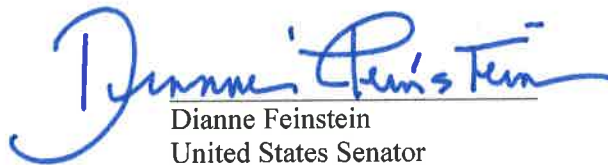
Maria Cantwell
United States Senator



Al Franken
United States Senator



Charles E. Schumer
United States Senator



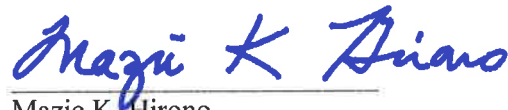
Dianne Feinstein
United States Senator



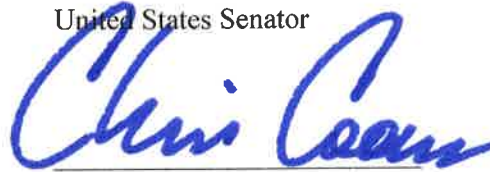
Sheldon Whitehouse
United States Senator



Tom Udall
United States Senator



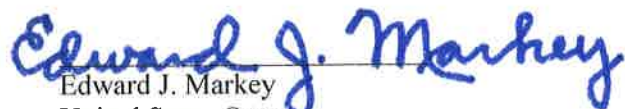
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