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Before the

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Committee on Energy and Commerce

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Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to testify today on the work of the Office of Inspector General (OIG) concerning the Department of Energy's (Department) implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act). The intent of the Recovery Act was to quickly stimulate the economy and create jobs while fostering an unprecedented level of accountability and transparency. The Recovery Act also provided the Department with a platform to transform its mission, particularly in the areas of scientific discovery, alternative energy sources and technological innovation.

The Department received \$35.2 billion under the Recovery Act for various science, energy and environmental programs and initiatives. As of March 4, 2011, according to the Department, it had obligated just over \$33 billion, or approximately 93 percent of its Recovery Act funds. However, of this amount, only \$12.3 billion had been spent. These funds were used to: (1) provide financial assistance awards, and (2) accelerate the work of the Department's existing facilities management contractors. The obligations and spending, broken down by programmatic area, include:

<i>Recovery Act Funding (\$ million)</i>			
<b>Program Office</b>	<b>Authorized</b>	<b>Awarded</b>	<b>Spent</b>
Energy Efficiency and Renewable Energy	\$16,666	\$16,665	\$6,121
Environmental Management	5,989	5,988	3,983
Electricity Delivery and Energy Reliability	4,488	4,487	932
Fossil Energy	3,379	3,379	178
Loan Guarantee Programs	2,470	424	123
Science	1,669	1,669	905
Advanced Research Projects Agency –Energy	387	387	78
Departmental Administration	144	71	46
Western Area Power Administration	10	7	5
Energy Information Administration	8	8	7
<b>Total</b>	<b>\$35,210</b>	<b>\$33,085</b>	<b>\$12,378</b>

## **Office of Inspector General Oversight Strategy**

Consistent with the objectives of the Recovery Act, my office has pursued a strategy designed to provide the Department with the most effective oversight possible. To achieve this goal, we implemented a multi-phased approach to evaluate Recovery Act activities, focusing on efforts to prevent inefficient, ineffective and abusive Recovery Act expenditures. This effort required a major commitment of OIG audit, inspection and investigative resources. In this pursuit, since passage of the Recovery Act, the OIG has:

- Issued 47 audit, inspection, investigative reports covering program activities that received about \$26 billion in Recovery Act funding (Attached to this testimony is a complete listing of the OIG's Recovery Act reports);
- Initiated over 80 Recovery Act-related criminal investigations; and,
- Conducted 258 Fraud Awareness Briefings for nearly 15,000 Federal, contractor, state and other officials.

Our work resulted in improvements in the management of Recovery Act-supported programs, including the development and application of safeguards designed to ensure transparency and accountability.

## **Preventative Efforts**

Within weeks of enactment, the OIG launched efforts to assist the Department with its implementation of the Recovery Act. Our work in this area involved:

- Early assessments designed to help Departmental officials move quickly to address and correct problems with control structures and execution by grantees and others. In particular:

1. We communicated lessons learned during prior audits of contracts and grants in a report to the Department. Specifically, we identified challenges that the Department encountered in administering grants and contracts, and identified opportunities to avoid similar problems. We pointed out, for example, that officials had not always adequately focused on evaluating the financial and business viability of projects funded through financial assistance awards. We suggested that the Department develop safeguards to ensure that financial and business risks were adequately assessed and monitored throughout the life-cycle of projects.
  2. We also reviewed the Department's risk identification process and the efficacy of planned mitigation strategies. As a result of this effort, we recommended that the Department improve a number of financial and management safeguards. Many of our recommendations were made on a real-time basis during the course of the audit and, to its credit, were immediately incorporated in the Department's approach.
- We provided over 250 Fraud Awareness Briefings to nearly 15,000 Recovery Act Federal, state and local oversight personnel as well as private sector recipients. During these briefings, participants were: (1) informed of common fraud schemes; (2) advised on specific vulnerabilities within the programs, contracts, and grants; and, (3) provided information on the best avenues to report concerns regarding potential fraud. All of these actions were designed to prevent and detect fraud. In this regard, we have seen a direct nexus between the Fraud Awareness Briefings and the reporting of fraud allegations.

## **Audit and Inspection Oversight**

We concentrated on high-risk areas as we evaluated Recovery Act efforts. This enabled us to identify a number of needed improvements in functions and programs directly impacted by the Recovery Act. For example:

- The OIG assessed the adequacy of the Department's acquisition workforce staffing levels. We concluded that the size and skill mix of the staff, then in place, was not adequate to meet the increased demands of the Recovery Act.
- Our audit staff evaluated the Department's performance management, accounting and reporting, and data quality assurance systems. We found that Department had not tested to ensure that systems were capable of handling Recovery Act volume increases and that important cyber security requirements had not been incorporated in grants transaction and reporting systems.
- We evaluated aspects of the Department's program to weatherize homes of low-income families, a \$5 billion Recovery Act initiative. Our evaluation identified significant problems with workmanship quality, cost controls, and performance monitoring of grantees and contractors. Illustrative of these problems, in one State, 12 of the 15 weatherized homes we visited failed inspections because of substandard workmanship. This included health and safety issues. We also found that one funding recipient in that State had not always ensured that home improvement material costs were reasonable. In fact, Recovery Act funds were used to purchase common items such as smoke alarms, thermostats, and fire extinguishers at costs exceeding retail by as much as 200 percent. To date, we have issued 8 reports on the Weatherization Program covering 5 states and we have ongoing work in 10 jurisdictions.

- Our reviews found significant delays in the pace at which Recovery Act funds had been expended by grant and other financial assistance recipients. For example, in our reviews of the State Energy Program and Energy Efficiency and Conservation Block Grants, programs that were allocated over \$6.2 billion, we determined that these efforts had not achieved their intended stimulative effect because funds, although deployed, were not actually being spent. Our evaluation established that the slow expenditure rates were attributable, in large part, to the fact that these programs were much more complex than originally anticipated. Most importantly, we found that implementation challenges resulting from mandatory requirements established under the Recovery Act, such as the Davis-Bacon Act of 1931, a Recovery Act specific Buy America provision, the National Environment Policy Act and the National Historic Preservation Act of 1966, led to a number of significant delays. At the time of our initial examinations, over a year after the Recovery Act had been enacted, actual expenditures amounted to only a small percentage of available funds. Even today, 2 years since enactment, the Department reports that only about 33 percent of all Recovery Act funds had been spent by state and local governments to improve energy efficient and conservations within their communities. We have to date issued five reports on State Energy Formula Grants covering four states and have ongoing work in another six states. We are currently working in three states at the grant recipient level on the Energy Efficiency and Conservation Block Grants Program.
- In a recent report, our review of the Loan Guarantee Program found that the Department had not devoted sufficient attention to ensuring that the resolution and mitigation strategies for identified loan risks were adequately documented. This program, designed to encourage the development of innovative technologies to help address the Nation's

energy challenges, is on a path to provide as much as \$71 billion in loan guarantees. The Program received \$2.4 billion in Recovery Act funds to support loan guarantee efforts.

We recommended a number of improvements designed to provide transparency and accountability by properly recording and archiving all material information developed during the due diligence process in a centralized, readily accessible system of records.

- We reviewed the approximately \$7.6 billion in Recovery Act funds provided to the Department's established facilities management contractors, funds largely designated for environmental remediation and scientific activities. Our reviews found that, for the most part, contractors included in our reviews had complied with key Recovery Act requirements. However, we have found improvements are possible. For example, one audit concluded that in expending Recovery Act funds the Department adopted an approach to waste processing at the Department's Hanford Facility in Washington State that would have cost about \$25 million more than necessary. Although it disagreed with our cost estimates, management agreed with our recommendation to fully analyze the cost implications of processing the waste stream we reviewed at Hanford. To date, we have issued 12 reports on Office of Environmental Management and Office of Science projects funded by the Recovery Act. We also have seven reviews in the Science and Environmental areas in progress.

### **Investigative Matters**

We currently have 64 open investigations associated with the Recovery Act, nearly 25 percent of our current case load. Schemes under investigation include the submission of false information in applications for funding, fraudulent claims for rebates, claims for unallowable or unauthorized expenses, the directing of contracts and grants to friends and family, weatherization fraud to

include mischarging, and other attempts to fraudulently obtain Recovery Act funds. To date, our Recovery Act-related investigations have resulted in over \$1 million in monetary recoveries and two criminal prosecutions. Further, nearly 20 percent of our other ongoing Recovery Act investigations have been accepted for either criminal or civil prosecutive action. And, Recovery Act funds, in large measure, are just being spent. Thus, we expect that our efforts in this area will continue for some time.

### **Recovery Act Implementation and Performance Observations**

In terms of Recovery Act funding, the Department was one of the largest recipients in the Federal Government. To put this in perspective, the \$35 billion in Recovery Act funding the Department received exceeded its annual budget of about \$28 billion. As structured, the Recovery Act was designed both to expand and supplement long-standing programs with which the Department and other stakeholders had a great deal of experience, such as the Weatherization Program, which had been in effect since the late 1970's. In addition, Recovery Act funds were used to create what were essentially new Departmental efforts, including the Energy Efficiency and Conservation Block Grant Program. This was to be accomplished expeditiously so as to stimulate the economy and create new jobs, all in an atmosphere of transparency and accountability.

Even under ideal circumstances, these were challenging goals. We noted during our work that there was what we considered to be an intense, good faith effort to implement and execute the various aspects of the Department's Recovery Act responsibilities in accordance with the Act's guidelines. These efforts notwithstanding, we had a number of overarching observations which we believe should be considered if similar programs are proposed:



1. The pressure of achieving expeditious program implementation and execution, and doing so with great emphasis on transparency and accountability, placed an enormous strain on the Department's personnel and infrastructure.
2. The challenges associated with the Department's program implementation and execution efforts were complicated by the nature of the bureaucracy in which it operates, specifically the diverse, complex and often asymmetrical set of stakeholders which play an integral role in this process. This includes literally thousands of state and local jurisdictions, community action organizations in every state and territory, universities and colleges, contractors and other private sector entities.
3. The concept of "shovel ready" projects became a Recovery Act symbol of expeditiously stimulating the economy and creating jobs. Yet, the Department programs which benefitted from the huge influx of Recovery Act funds, as it turned out, required extensive advance planning, organizational enhancements, additional staffing and staff training. This we found was true at the Federal, state and local levels.
4. The Federal, state and local government infrastructures were, simply put, overwhelmed. In several states, the very personnel who were charged with implementing the Recovery Act's provisions had been furloughed due to the economic situations. Ironically, this delayed timely allocation and expenditures of funds intended to boost the U.S. economy.
5. The pace of actual expenditures was significantly slowed because of the time needed to understand and address specific requirements of the Recovery Act.
6. At the initiation of the Recovery Act, fund recipients expressed their concern with what they described as overly complex, complicated and burdensome reporting requirements.

In summary, a combination of massive funding, high expectations and inadequate infrastructure resulted, at times, in less than optimal performance.

### **Noteworthy Accomplishments**

We found a number of success stories which, in our judgment, reflected well on the Department's Recovery Act efforts. For example:

- The Department's management and operating contractors, for the most part, complied with Recovery Act requirements relating to transparency and accountability;
- The Department increased its workforce and redirected personnel to improve its monitoring of financial assistance agreements; and,
- Finally, the Department improved information technology systems for tracking financial information and project performance.

### **Path Forward**

Large portions of the funds allocated to the Recovery Act have yet to be spent. Accordingly, we have ongoing and planned audits and inspections of Recovery Act funds in a number of high-risk areas such as Advanced Research Projects Agency-Energy, Electricity Delivery and Energy Reliability, and Renewable Energy Programs. Additionally, our investigative efforts continue.

We are also in the process of evaluating contingency plans to address problems with transitioning to a post-Recovery Act funding posture. Of the most immediate concern is how the Department plans to deal with a significant downsizing of the contractor workforce.

Mr. Chairman, this concludes my statement and I would be pleased to answer any questions that the Subcommittee may have.

**Department of Energy Office of Inspector General  
Recovery Act Reports**

	<b>Title</b>	<b>Report Number</b>	<b>Date Issued</b>
1.	Recovery Act Funded Projects at the SLAC National Accelerator Laboratory	<a href="#">OAS-RA-L-11-05</a>	2011-03-08
2.	The Department of Energy's Loan Guarantee Program for Clean Energy Technologies	<a href="#">IG-0849</a>	2011-03-03
3.	The Department's Infrastructure Modernization Projects under the American Recovery and Reinvestment Act of 2009	<a href="#">OAS-RA-L-11-04</a>	2011-03-02
4.	Management of the Tank Farm Recovery Act Infrastructure Upgrades Project	<a href="#">OAS-RA-L-11-03</a>	2011-02-09
5.	The Department of Energy's Weatherization Assistance Program under the American Recovery and Reinvestment Act for the Capital Area Community Action Agency – Agreed-Upon Procedures	<a href="#">OAS-RA-11-04</a>	2011-02-01
6.	Audit of Environmental Cleanup Projects Funded by the Recovery Act at the Y-12 National Security Complex	<a href="#">OAS-RA-L-11-02</a>	2010-12-20
7.	Management Alert on the State Energy Efficient Appliance Rebate Program	<a href="#">INV-RA-11-01</a>	2010-12-03
8.	The Department of Energy's Weatherization Assistance Program under the American Recovery and Reinvestment Act for the City of Phoenix – Agreed-Upon Procedures	<a href="#">OAS-RA-11-03</a>	2010-11-30
9.	Management of the Plutonium Finishing Plant Closure Project	<a href="#">OAS-RA-L-11-01</a>	2010-11-10
10.	Selected Aspects of the Commonwealth of Pennsylvania's Efforts to Implement the American Recovery and Reinvestment Act Weatherization Assistance Program	<a href="#">OAS-RA-11-02</a>	2010-11-02
11.	The State of Illinois Weatherization Assistance Program	<a href="#">OAS-RA-11-01</a>	2010-10-14
12.	Management Controls over the Department of Energy's American Recovery and Reinvestment Act – Michigan State Energy Program	<a href="#">OAS-RA-10-18</a>	2010-09-29
13.	Review of Allegations Regarding Hiring and Contracting in the Office of Energy Efficiency and Renewable Energy	<a href="#">OAS-SR-10-04</a>	2010-09-22
14.	Status Report: The Department of Energy's State Energy Program Formula Grants Awarded under the American Recovery and Reinvestment Act	<a href="#">OAS-RA-10-17</a>	2010-09-21

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15.	The Department of Energy's American Recovery and Reinvestment Act - Georgia State Energy Program	<a href="#">OAS-RA-L-10-06</a>	2010-09-15
16.	Office of Science's Energy Frontier Research Centers	<a href="#">OAS-RA-L-10-09</a>	2010-08-27
17.	Decommissioning and Demolition Activities at Office of Science Sites	<a href="#">OAS-RA-L-10-05</a>	2010-08-12
18.	The Department of Energy's Implementation of the Energy Efficiency and Conservation Block Grant Program under the Recovery and Reinvestment Act: A Status Report	<a href="#">OAS-RA-10-16</a>	2010-08-11
19.	Review of the Department's of Energy's Plan for Obligating Remaining Recovery Act Contract and Grant Funding	<a href="#">OAS-RA-10-15</a>	2010-08-04
20.	Management Controls over the Development and Implementation of the Office of Energy Efficiency and Renewable Energy's Performance and Accountability for Grants in Energy System"	<a href="#">OAS-RA-10-14</a>	2010-07-22
21.	The Department of Energy's Use of the Weatherization Assistance Program Formula for Allocating Funds Under the American Recovery and Reinvestment Act	<a href="#">OAS-RA-10-13</a>	2010-06-11
22.	The Department of Energy's American Recovery and Reinvestment Act- Florida State Energy Program	<a href="#">OAS-RA-10-12</a>	2010-06-07
23.	Management Controls over the Commonwealth of Virginia's Efforts to Implement the American Recovery and Reinvestment Act Weatherization Assistance Program	<a href="#">OAS-RA-10-11</a>	2010-05-26
24.	Waste Processing and Recovery Act Acceleration Efforts for Contact-Handled Transuranic Waste at the Hanford Site	<a href="#">OAS-RA-10-10</a>	2010-05-25
25.	Management Controls over the Department of Energy's American Recovery and Reinvestment Act- Louisiana State Energy Program	<a href="#">OAS-RA-10-09</a>	2010-05-03
26.	Progress in Implementing the Advanced Batteries and Hybrid Components Program under the American Recovery and Reinvestment Act	<a href="#">OAS-RA-L-10-04</a>	2010-04-27

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27.	The Department of Energy's Program to Assist Federal Buyers in the Purchasing of Energy Efficient Products	<a href="#">OAS-RA-10-08</a>	2010-04-27
28.	Moab Mill Tailings Cleanup Project	<a href="#">OAS-RA-L-10-03</a>	2010-04-23
29.	Fermi National Accelerator Laboratory's NOvA Project	<a href="#">OAS-RA-L-10-02</a>	2010-04-16
30.	Management Alert on Environmental Management's Select Strategy for Disposition of Savannah River Site Depleted Uranium Oxides	<a href="#">OAS-RA-10-07</a>	2010-04-09
31.	The Department of Energy's Management of the NSLS-II Project	<a href="#">OAS-RA-L-10-01</a>	2010-04-06
32.	Accounting and Reporting for the American Recovery and Reinvestment Act by the Department of Energy's Funding Recipients	<a href="#">OAS-RA-10-06</a>	2010-04-01
33.	Management Controls over the Department's WinSAGA System for Energy Grants Management Under the Recovery Act	<a href="#">OAS-RA-10-05</a>	2010-03-25
34.	Progress in Implementing the Department of Energy's Weatherization Assistance Program under the American Recovery and Reinvestment Act	<a href="#">OAS-RA-10-04</a>	2010-02-19
35.	Review of Allegations Involving Potential Misconduct by a Senior Office of Environmental Management Official	<a href="#">S09IS024</a>	2009-12-29
36.	Management Challenges at the Department of Energy	<a href="#">IG-0832</a>	2009-12-11
37.	Selected Department of Energy Program Efforts to Implement the American Recovery and Reinvestment Act	<a href="#">OAS-RA-10-03</a>	2009-12-07
38.	Management Alert on the Department's Monitoring of the Weatherization Assistance Program in the State of Illinois	<a href="#">OAS-RA-10-02</a>	2009-12-03
39.	The Department of Energy's Quality Assurance Process for Prime Recipients' Reporting for the American Recovery and Reinvestment Act of 2009	<a href="#">OAS-RA-10-01</a>	2009-10-21
40.	The Department's Management of the ENERGY STAR Program	<a href="#">IG-0827</a>	2009-10-14
41.	The Department of Energy's Management of Contractor Fines, Penalties and Legal Costs	<a href="#">IG-0825</a>	2009-09-30

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42.	Bonneville Power Administration's Acquisition of Transmission-Related Materials and Equipment	<a href="#">IG-0824</a>	2009-09-29
43.	Management of Energy Savings Performance Contract Delivery Orders at the Department of Energy	<a href="#">IG-0822</a>	2009-09-10
44.	Department of Energy's Efforts to Meet Accountability and Performance Reporting Objectives of the American Recovery and Reinvestment Act	<a href="#">OAS-RA-09-04</a>	2009-09-04
45.	Department of Energy Efforts to Manage Information Technology Resources in an Energy-Efficient and Environmentally Responsible Manner	<a href="#">OAS-RA-09-03</a>	2009-05-27
46.	The Department of Energy's Acquisition Workforce and its Impact on Implementation of the American Recovery and Reinvestment Act of 2009	<a href="#">IG-RA-09-02</a>	2009-03-30
47.	The American Recovery and Reinvestment Act at the Department of Energy	<a href="#">OAS-RA-09-01</a>	2009-03-20