

Find Solutions For

- + Debt/Bankruptcy
- + Energy/Commodities
- + Global Trade
- + Private Equity
- + Risk & Compliance
- + Venture Capital
- + Events

Upcoming Dow Jones Events
Venture Capital

 **Venture Capital Dispatch**

- Q&A With LivingSocial CEO
Tim O'Shaughnessy
- The Daily Start-Up: DOE
Cloaks Controversial
Project Costs
- Silicon Valley Pioneer
Sandra Kurtzig Back In
Start-Up Game With
Kenandy
- The Daily Start-Up:
Foundation Capital Plugs
Into Aquion
- Verizon Hoping For Cloud
Lift With CloudSwitch Deal
- The Entrepreneurs Who
Look to Steve Jobs
- The Daily Start-Up: Four
IPO Filings Of A Kind
Is Jive Software Big
Enough To Go Public?
Ford Wants Help In

VentureWire

Free sample article courtesy of Dow Jones VentureWire

[Print](#) | [Email](#)

Questions Raised After DOE Hides Costs Of Energy Projects
Yuliya Chernova | 29 August 2011

The Department of Energy has removed from the public eye the total cost of renewable energy projects backed by billions of dollars in federal loans, in response to requests from recipients.

The loan guarantee program, which has come under fire by a Republican-controlled Congress, has committed more than \$30 billion to 42 renewable energy projects since 2009, when the federal stimulus bill allocated capital for this purpose. Each project is listed in detail on the DOE's website, but the costs were recently taken down.

The move is unusual for the Obama administration, which in general has been more forthcoming online with government spending data than previous administrations. However, some critics, especially from the Republican party, have complained that the DOE has withheld key information regarding the loan guarantee program in particular. The House Energy and Commerce Committee is currently investigating the first loan made under the program in 2009 for solar-panel maker Solyndra Inc., requesting documents and raising questions as to whether the investment choice was prudent.

Critics of the program have said that some of the projects could be too risky, especially considering that taxpayer dollars support them. The House Committee also raised questions about the political connections of Solyndra backers, and their role in winning the loan, but the total cost has not been subject of criticism.

"After some companies asked that we remove their total project cost from our Website, last month our legal team conducted a review and determined that total project costs are likely protected by the Trade Secrets Act," wrote a DOE official in an email to VentureWire. He was referring to the Uniform Trade Secrets Act, which is not a federal law, but a model law that most states use to protect trade secrets. Government employees are precluded from releasing trade secrets.

Total cost of a project can be considered a trade secret, but only if a company can prove the information could give a competitor an economic advantage, according to Russell Beck, attorney with the law firm Beck Reed Riden LLP and a professor at the Boston University School of Law's Intellectual Property program. Just because the cost is confidential doesn't automatically make it a trade secret, he said, especially in cases where the contract is already signed with a customer as opposed to still being part of a confidential bid process. The fact that the information was open to the public, and to competitors, for several months on the government website is also likely to disqualify it from being subject of trade secret laws, Beck said.

Solar cell manufacturer SunPower Corp., which was offered a \$1.19 billion loan in April, subject to certain conditions, deems the total cost of its California project -- previously reported by Dow Jones as \$1.58 billion -- confidential information, protected under its contract with the buyer of the solar power the project will produce, according to spokeswoman Ingrid Ekstrom. She declined to say whether SunPower requested the DOE to remove the total cost information, and declined to comment on what responsibilities it believes it has as a potential recipient of government funds. A representative of First Solar Inc., a high-profile recipient of more than \$5 billion of conditional loans from the program, declined to comment on the subject. A representative of another solar company, Brightsource Energy Inc., which previously highlighted its total project cost of \$2.2 billion in conversations with VentureWire, said he wasn't aware the information was removed, but didn't comment further.

"If you feel that the total project cost is business sensitive, then don't take government money," said Sean Moulton, director of federal information policy at OMB Watch, a nonprofit organization advocating for transparency in government spending. Moulton said the total cost of a project is a fundamental fact that can help the public evaluate whether government funds are being spent wisely.

"I'm quite surprised and disappointed," said Moulton, about the DOE's decision to remove the information. He added that transparency is especially important for public interest projects such as the renewable energy ones that the government supports.

The loan guarantee program, which was created in 2005 during the George W. Bush administration, is backing wind, solar, nuclear, and geothermal power projects and manufacturing plants. Many of the loans come from the Federal Finance Bank. Part of the capital allocated to the program comes from the American Recovery and Reinvestment Act of 2009, which was the first spending law, according to advocates, to include a requirement to disclose information about projects online.

Moulton said that in his experience, the Uniform Trade Secrets Act is invoked extremely rarely by the government.

"We are committed to providing the public with as much information as we can, but we also have an obligation to avoid releasing business or procurement sensitive information," wrote the DOE spokesman in an email.

Document DJFVW00020110829e78t0005o

(c) 2011 Dow Jones & Company, Inc.

Share : 

[Print](#) | [Email](#)

[Subscribe Now](#) to Dow Jones VentureWire

SIGN UP FOR A FREE TRIAL
OF VentureWire

About VentureWire

Dow Jones VentureWire is a daily e-newsletter providing news and analysis on the venture capital industry, including in-depth insight on venture-backed technology and healthcare companies.

Please [click here](#) for more information or a free trial.

 **VentureWire**

- Maveron Promotes Andrew Trader To
Venture Partner
- Scientific Conservation Completes
Acquisition; Raises \$9.6M
- Affinium Closes \$15M Round For
Antibacterial Therapeutics
- Crocus Technology Buys MRAM Patent
Portfolio From NXP
- Western Union Forms Ventures Unit To
Focus On Developing New Services
- Facebook Pulls Daily Deals Service After
Four Months
- Kenandy Emerges From Stealth With
\$10.5M Series A
- Flex BioMedical Preps Novel Osteoarthritis
Therapy For European Studies
- Quixey Searches For Apps, Finds \$3.8M
Series A
- Anthem Capital Winding Down; Partner
Gust Takes Lead At Plasmonix
- AirXpanders Seeks Funding After FDA

