

Congress of the United States

Washington, DC 20515

July 24, 2026

Orice Williams Brown
Acting Comptroller
US Government Accountability Office
441 G St NW, Washington, DC 20226

Dear Acting Comptroller Williams Brown,

We write to request that the Government Accountability Office (GAO) examine the Department of Energy's (DOE) efforts to use up to \$425 million in Defense Production Act (DPA) Title III funds to support coal-fired power plants and the construction of the West Gateway Terminal Project (also referred to as the Oakland Bulk and Oversized Terminal) in Oakland, California.

On June 4, 2026, the Administration announced it would utilize emergency authorities under Title III of the DPA (50 U.S.C. § 4533) as part of a broader effort to subsidize commercial coal infrastructure. The DPA was intended to scale up domestic industrial capabilities to meet urgent military or national emergency needs; therefore, its invocation to construct a commercial, civilian export facility intended primarily to serve foreign commercial markets raises profound statutory, legal, and fiscal questions.

We do not believe this satisfies the statutory definition of "national defense" or "critical infrastructure protection" under the DPA and that there is no legally sufficient, data-driven nexus between civilian coal exports and immediate U.S. military readiness or critical infrastructure defense

Under the DPA, the President's authority to create, maintain, or expand domestic industrial capacity is strictly bound to actions that support the "national defense." Section 702(14) of the Act defines national defense as "programs for military and space production or construction, military assistance to any foreign nation, stockpiling, space, and critical infrastructure protection and restoration." However, the DOE's stated justification for this award is to expand West Coast capacity to ship American coal to commercial markets in the Indo-Pacific region. Furthermore, Title III of the DPA dictates that the President cannot obligate funds to expand industrial capacity unless the President formally determines that the material or service is critical to the national defense, that U.S. industry cannot reasonably provide the capability in a timely manner, or that this action is the most cost-effective method of meeting the need.

Additionally, the Purpose Statute (31 U.S.C. § 1301) dictates that "appropriations shall be applied only to the objects for which the appropriations were made." Congress has consistently appropriated funds to the DOE's DPA account with the legislative intent of strengthening advanced manufacturing, grid components (such as large power transformers), and critical mineral supply chains. Congress has never appropriated funds to the DOE's DPA account with the intent of propping up a dying industry or financing a purely commercial project. We are deeply concerned that DOE has improperly diverted funds from accounts intended by Congress

for the critical modernization and resilience support of our nation's grid to instead finance a commercial fossil fuel export project

Lastly, the West Gateway Terminal project has been the subject of intensive, decade-long environmental and health litigation, driven by municipal bans on coal handling enacted to protect local communities from severe particulate pollution. With no clear national security nexus, we question whether the DOE utilized emergency DPA authorities with the intent of preempting or subverting valid local health ordinances and environmental regulations. If so, this would be a gross departure from the intent of the DPA.

Therefore, we request that you review the DOE's use of DPA to support coal, including:

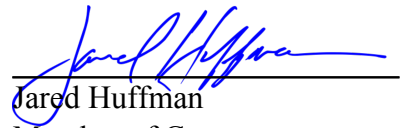
1. How the DOE utilized DPA authorities to support the production, use, and export of coal, and
2. The extent to which the DOE followed policies and procedures and utilized quality information and analysis in making determinations and selections with respect to supported DPA coal projects.

As part of the review, we ask that you consider internal communications, economic assessments, and legal memoranda generated by the DOE's Office of Manufacturing and Energy Supply Chains and the White House regarding this project selection.

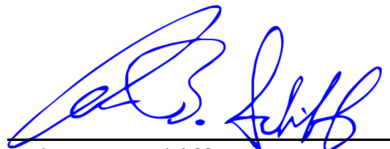
Sincerely,



Alex Padilla
United States Senator



Jared Huffman
Member of Congress



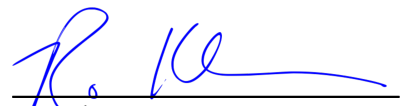
Adam B. Schiff
United States Senator



Lateefah Simon
Member of Congress



John Garamendi
Member of Congress



Ro Khanna
Member of Congress