Florida Department of Economic Opportunity
Six-Month Status of Audit Findings
OPPAGA Report No. 17-02
(FL Economic Development Program Evaluations – Year 4 Report)
July 24, 2017

<u>Finding 1: Overall, projects that received payments during the review period have created 33,627 new jobs and made $3.3 billion in capital investments.</u>

Auditor Recommendation: The 232 active, complete, and inactive projects that received incentive payments in Fiscal Years 2012-13 through 2014-15 have created a cumulative 33,627 new jobs. The total number of confirmed jobs was less than the number of committed jobs for every incentive program. However, 61.2% of the projects are active and in good standing with regard to adhering to contract performance schedules.

The cumulative job amount is 76.5% of the total contracted new jobs requirement. Projects with an active status achieved 56.1% of job goals thus far, while complete projects achieved 163.6% and inactive projects achieved 78.6%.

Department of Economic Opportunity (DEO) Response:
We agree with your observation that projects in the review population have already created more than 33,000 new jobs and invested $3.3 billion in capital investments. As the report indicates, some of these projects are in active status. The active projects are in good standing – each meeting job requirements and other long-term performance goals, yet, as of this report date, not all of the contractual requirements are due or achieved. Because these projects have multiple years of additional performance scheduled, to date, the total new jobs created and capital investment have not yet reached the totals committed for future years. Payments on these incentive projects will not occur until full performance measures have been met, as is required under the strict measures put into place by Governor Scott since 2011.

Six-Month Status:
DEO maintains its original response as stated above.

<u>Finding 2: During the review period, DEO terminated 134 incentives that failed to meet performance goals; terminated incentives were scheduled to create 12,822 jobs and make $195 million in capital investments.</u>

Auditor Recommendation: From Fiscal Years 2012-13 through 2014-15, DEO terminated 134 incentives for 124 projects because incentive recipients failed to achieve contractual performance standards; these incentives were due to receive $60.7 million in payments. The incentives were committed to create 12,822 jobs and make $195 million in capital investments. The incentives were to receive payments from the following programs:

Brownfield Redevelopment Bonus Refund, Qualified Target Industry Tax Refund, and Quick Action Closing Fund.

Before termination, the incentives resulted in some job creation and capital investment. Specifically, DEO confirmed that the incentives created 213 jobs (1.7% of those committed by contract) and made $2.7 million in capital investments (1.4% of the amount required).

Department of Economic Opportunity (DEO) Response:
The report provides a summary of incentive agreements that DEO terminated during the review window that were scheduled to create jobs and make capital investment over multiple years. DEO's incentive agreements are performance-based, and businesses that do not meet specified performance benchmarks do not qualify for payments. The terminated agreements OPPAGA identified received no incentive funds.

Incentive agreements are terminated for a variety of reasons, including, but not limited to, change in business plans, businesses not meeting performance requirements, or businesses not filing performance claims. The fact that these agreements were terminated does not mean that the businesses have ceased operations in Florida or left the state. In each case of termination, no incentive funds were paid to the business, and taxpayers' funds were appropriately protected.

Six-Month Status:
DEO maintains its original response as stated above.

Finding 3: Most businesses receiving economic incentives have more than 1,000 employees.

Auditor Recommendation: OPPAGA's analysis of businesses that received incentives in Fiscal Years 2012-13 through 2014-15 shows that incentives are typically awarded to large businesses. Specifically, the analysis of 214 projects for which there is data found that 14.5% of incentive recipients have fewer than 50 employees, while 51.9% of recipients have more than 1,000 employees.

Department of Economic Opportunity (DEO) Response:
The report provides an analysis of the number of incentives awarded to businesses of various sizes, and represents that slightly more than half of the incentive recipients are businesses that have 1,000 or more employees. The report also points out that many jobs are added by small businesses. While Florida continues to benefit from significant job creation and capital

investment by large businesses, it is also noteworthy that approximately 38 percent of the incentive recipients fall within the federal definition of a small business. The report's analysis of incentive recipients shows a variety of small, medium and large businesses are approved for incentives and choose to locate or expand in Florida. In addition, DEO remains committed to small businesses throughout the state through the support provided by programs such as the Florida Microfinance Program and State Small Business Credit Initiative.

Six-Month Status:
DEO maintains its original response as stated above.

Finding 4: Most Innovation Incentive Program recipients have been unable to achieve job goals.

Auditor Recommendation: The 2006 Legislature created the Innovation Incentive Program to respond expeditiously to economic opportunities and compete for high value research and development, innovation business, and alternative and renewable energy projects. The program provides funds to research and development projects that conduct basic and applied research in the sciences or engineering, as well as design, develop, and test prototypes or processes. These projects must serve as catalysts for the growth of existing or emerging technology clusters. Although the program has targeted primarily biotechnology businesses, it signed a funding agreement with an aircraft-manufacturing firm in 2013 for a research and development center. Florida has aggressively pursued developing a biotechnology industry to diversify the state's economy and create high skill, high wage jobs.

Department of Economic Opportunity (DEO) Response:
The vast majority of the Innovation Incentive projects included in this report were approved and awarded funds between 2006 and 2008, before Governor Scott took office and before Governor Scott reformed the incentive process. It is important to note that these incentives were evaluated, approved and contracted through a very different process than is in place today. Since 2011, we have made significant changes to the incentives application and approval process and our due diligence procedures. These improvements, together with improved deal structures and contracts, have provided an enhanced level of protection for the taxpayer's investment.

Six-Month Status:
DEO maintains its original response as stated above.

Finding 5: DEO should improve the timeliness of the incentive claims and payment processes.

Auditor Recommendation: OPPAGA found that the average time claims submissions spent with the third-party auditor during this period was 353 days, or nearly 12 months, while the average time between claims submissions and incentive payments to businesses was 489 days, or more than 16 months. To improve the timeliness of the incentive claims and payment processes, DEO should educate businesses about documentation requirements early in the incentive application process. DEO should also provide businesses with technical assistance during the claims submission process. These steps could facilitate businesses' timely submission of required information. In addition, the department could examine the claims and payment processes to determine if there are opportunities for further improvement.

Department of Economic Opportunity (DEO) Response:
DEO continually seeks to improve its incentive claims process both with respect to service to businesses and accountability to taxpayers. As the report indicates, 75 percent of businesses expressed satisfaction with assistance provided by DEO, and transitioning to electronic submissions has made the process more user-friendly. In FY 2014-15, the review process to pay economic incentive claims was completed in 23 months. By FY 2015-16, the review process to pay economic incentive claims was completed in 13 months, cutting the time almost in half. The agency's current goal is to further reduce the time it takes to pay economic incentive claims to nine months, another 30 percent reduction, by the end of this fiscal year. DEO will continue its efforts to improve the efficiency of its incentive claims process. DEO's plan for continued improvement of the claims process includes providing additional educational opportunities for businesses as part of incentive agreement negotiation process and as part of the performance claims filing process. This will help businesses prepare for and understand how performance will be measured and what documentation will be required.

Six-Month Status:
DEO maintains its original response as stated above.

Finding 6: DEO should improve New Markets Development Program oversight and the Legislature could consider expanding reporting requirements.

Auditor Recommendation: To adequately measure the economic impact of the program on low-income communities, DEO should improve its annual reporting criteria in two ways: (1) have community development entities report actual job creation for the prior year rather than total projected job creation over the life of the program, and (2) verify wages reported by CDEs using Department of Revenue tax records.

Department of Economic Opportunity (DEO) Response:
The report states that there are no formal criteria for selecting recipients; however, DEO follows the process as outlined in state statute. Qualified community development entities (CDEs) must submit an application to DEO for approval of a proposed investment as a qualified investment. The application is reviewed and approved or denied based on the statutory criteria. Additionally, the definition of a qualified CDE in Florida statute requires certifications and agreements with the U.S. Department of Treasury. Including these federal requirements in the definition of a qualified Florida CDE provides the state with a thorough vetting process without duplicating these processes at the state level. DEO agrees that CDEs must include the number of jobs created and retained by each qualified active low-income community business in their annual report submitted to DEO, as outlined in section 288.9918, Florida Statutes. We will continue to work with the entities to ensure that this requirement is understood and require jobs created to be reported accordingly.

Six-Month Status:
DEO maintains its original response as stated above.

Finding 7: New Markets Development Program projects are primarily located in two counties and most capital is invested in four industries; inadequate reporting requirements hamper assessment of program impact.

Auditor Recommendation: From its inception in Fiscal Year 2009-10 through Fiscal Year 2014-15, the New Markets Development Program has allocated $216 million in tax credits to 18 community development entities (CDEs); 2 CDEs received over half (54%) of all tax credits allocated. Currently, there are no formal criteria for allocating tax credits. Rather, prior to Fiscal Year 2013-14, DEO allocated tax credits on a first-come, first-served basis, and in Fiscal Years 2013-14 and 2014-15, it allocated the same amount of tax credits to each applicant. These tax credits were used to finance $579.9 million of investment capital into 83 qualified active low income community businesses (QALICBs). Investors claimed $69 million of tax credits against insurance premium and corporate income taxes from calendar years 2011 through 2014.

OPPAGA's analysis of DEO data indicates that since program inception, the 83 QALICBs received investments across 24 counties. The counties receiving the most investments were Miami-Dade and Hillsborough, which received 19% and 18% of the total investment capital, respectively.

Together, these counties received approximately $217.9 million of the $579.9 million total investment capital.

Department of Economic Opportunity (DEO) Response:

In the first two years of the program, very few CDEs applied for tax credits resulting in the largest allocation received to-date by the program ($97.5 million) being largely split between two CDEs. Since program inception, the number of qualified applicants has increased. In addition, DEO now divides credits among all qualified applicants equally, resulting in the wider distribution of credits. However, because of the large allocation that went to a small number of CDEs in the first and second year of the program, the cumulative total is significantly larger for those two CDEs.

Six-Month Status:

DEO maintains its original response as stated above.