

**COUNCIL ON DEVELOPMENT FINANCE**

**December 14, 2015**

**PUBLIC HEARING 417**

**THOSE PRESENT:**

Mr. Andrew Lubin, Chairperson  
Honorable Nancy Cook  
Mr. Tarik Haskins  
Mr. Richard Rowland  
Sen. Nicole Poore  
Mr. Fred Sears  
Director Bernice Whaley  
Mr. Lawrence Lewis

Mrs. Kirsten Wolfington  
Mr. James Pennewell  
Ms. Emily Baird  
Mrs. Amber Mudri  
Mrs. Jodie Green  
Ms. Kimberly Cruz  
Mrs. Karen Smith  
Mrs. Christina Dirksen

**ALSO PRESENT:** Mr. Art Jenkins, Controller General; Mrs. Lindsay Lewis and Ms. Erin Innes, Office of Management and Budget

**LOCATION:** Buena Vista

**TIME:** 9:00 A.M.

**CALL TO ORDER:**

The meeting was called to order at 9:00 A.M. by Chairperson Lubin, on Monday, December 14, 2015.

**OLD BUSINESS:**

Mr. Lubin made a motion that the minutes of the November 16, 2015, Council on Development Finance meeting be approved as presented. Mr. Rowland approved the motion, and Mr. Sears seconded the motion, which was then adopted by unanimous vote.

**NEW BUSINESS:**

Mrs. Mears presented the Portfolio Summary, pursuant to Section 4.9 of the regulations governing the Council on Development Finance, which requires the Delaware Economic Development Office to report annually on the current status of active loan, grant, and microprogram incentives. Mrs. Mears stated that there are currently 115 active grants with executed contracts that have been awarded a total of \$131,572,134.26. Mrs. Mears stated that the grants have received 70% of the total amount of funds awarded, have achieved 84% of initial job creation projections, the cumulative portfolio is exceeding benchmark requirements with a total of 32,299 full-time Delaware positions retained and created, and, with the exception of three, to date all grants are compliant. Mrs. Mears

stated that those three grants that are non-compliant are in the cure process to remedy the shortfalls in required benchmarks.

Senator Poore asked if it was possible to disclose the names of the three grants that are in the cure process. Mrs. Mears stated that she was uncertain if the matter was better suited for an Executive Session discussion, but that the full list was available at the DEDO office.

Mr. Lubin asked what period of time is covered in reference to the nearly \$132 million in grants. Mrs. Mears stated that the majority of the grants covered in the report spanned the current administration, beginning in 2009 to the present, but that there were a select few older grants that stretched back to 2005. Mr. Lubin also asked what is the total value of the three grants currently in the cure process. Mrs. Mears stated that she will follow up on the amount.

Mr. Sears asked if, according to the Portfolio Summary spreadsheet, a listed amount of \$44 million was scheduled to be disbursed during this fiscal year. Mrs. Mears stated that the remaining amount was in reference to commitments that have not yet been disbursed, which are contingent upon expected benchmarks. Mr. Sears asked if the funds are available. Mrs. Mears stated that the funds are available; Mrs. Whaley added that, technically, if the grant recipient is able to achieve the established goals within the fiscal year, the funds may be disbursed.

Mr. Sears asked for clarification regarding the number of businesses that have been assisted compared to the amount of funds disbursed. Mrs. Whaley stated that there are currently 115 active grants. Mrs. Mears stated that the number of grants covered more than 100 individual companies within the state. Mr. Sears asked if there were details regarding the breakdown per county. Mrs. Mears stated that information would be best covered under the microprograms portion of the Portfolio Summary.

Mrs. Mears stated that under the Strategic Fund Loans there are currently 12 loans being serviced, all of which are up to date with repayment, and with a total outstanding balance of \$25 million.

Mr. Sears asked if, when the funds are repaid, the money is returned to the Strategic Fund, and whether that money is then redistributed. Mrs. Mears stated that was correct on both counts. Mr. Sears asked if there was interest added when repayments are made. Mrs. Mears stated that it was dependent upon the nature of the recipient. Mrs. Mears stated that most repayments were made with interest, unless the disbursement was for unique borrowers such as some nonprofit entities.

Mrs. Mears stated that, in the case of defaults and collections, DEDO works with the Attorney General's Office, and repayments that are 90 days past due were declared in default, filed with the Deputy Attorney General, and assigned to collections. Mrs. Mears stated that there were currently between 10 and 12 files with the Attorney

General's Office, but that there were no new defaults or grant write-offs within Fiscal Year 2015.

Senator Poore asked what is the total number of defaults. Mrs. Mears stated that she would follow up with that number, but it was best suited to an Executive Session discussion, pending litigation. Mr. Rowland asked if there was any recovery in older defaults. Mrs. Mears stated that over the past fiscal year between \$6,000 to \$10,000 was recovered through negotiation with borrowers after default. Mrs. Mears stated that there have not been any liquidations over the past fiscal year.

Mr. Haskins asked if any of the loans were secured loans, and if it was ever necessary to foreclose on collateral. Mrs. Mears stated that it was required in previous fiscal years, but most often DEDO is listed as a second or third lender, and therefore do not usually reap benefits from liquidation.

Mr. Sears asked what entity was responsible for making the decision to no longer pursue repayment. Mrs. Mears stated that the Deputy Attorney General's office would advise on how to proceed, with internal discussions between the DEDO Director and the Capital Resources Department. Mrs. Mears added that most typically, loans provided under the LIFT program were the only items that ceased to be pursued. Mr. Lubin stated that, as the Council on Development Finance is making the recommendation to fund the projects, the Council should continue to be updated.

Senator Poore asked what the factors are for the lack of defaults within Fiscal Year 2015. Mrs. Mears stated that DEDO staff has been closely monitoring the loans as they become delinquent, as well as being proactive in reaching out to the recipient before the loan defaults. Mrs. Mears added that, if necessary, DEDO works with the recipient in order to keep it in a position of repayment through loan modifications, which also require approval through the Council.

Mr. Lubin asked what is the timeframe that it takes for these situations to appear. Mrs. Mears stated that the review went back to 2011. Mrs. Whaley stated that specifically to older loans that were reaching a balloon payment, staff attempted to visit the business to ensure that it was aware of the situation.

Mrs. Mears stated that in regards to Industrial Revenue Bond Financing Program, DEDO was not a guarantee of the payment of principle or interest. The transaction entails DEDO passing on its tax-exempt status to the borrower as a benefit. Mrs. Mears stated that, as of December 31, 2014, there were 37 outstanding bonds with reported balances totaling \$737,851,222.00.

Mrs. Mears discussed the State Small Business Credit Initiative, an amount awarded from the United States Department of the Treasury, totaling \$13,168,350.00. Mrs. Mears stated that, to date, \$8,691,111.00 of that allocation has been received, with the final request for the remaining amount currently in discussion. Mrs. Mears added that

\$8,221,025.00 of the awarded funds have been distributed, which is a \$1.7 million increase since 2014.

Mr. Lubin asked what was the goal of the Treasury. Mrs. Mears stated that the initial goals set by Treasury were reexamined, and are now aligned with more viable expectations. DEDO is meeting those goals. Mrs. Mears stated that the benefits of the programs included the fact that the distribution of funds did not diminish from the Strategic Fund amounts, and it helped small businesses across the state, particularly nonprofits and startup businesses. Senator Poore asked if figures were available regarding the types of businesses that benefitted. Mrs. Mears stated that numbers can be provided for Fiscal Year 2014, but, with the new data platform, information for 2015 would not be immediately available.

Mr. Lubin asked if any of the amounts were used as flood recovery in Sussex County. Mrs. Mears stated that disbursements were not used for emergency assistance. Mr. Haskins asked about the type of businesses that were recipients of the funds, specifically in Sussex County. Mr. Pennewell said that the majority of funds were distributed to a hotel, car wash, and brewery within that county.

Mrs. Mears discussed the Delaware Capital Access Program, established in the early 1990s, which acts as a reserve fund, with a lending institution matching the business assistance in the case of default. Mrs. Mears stated that the Delaware Rural Irrigation Program was a niche program designed in 2011 to irrigate new acreage, with financing up to 25% of the total project cost with no interest. Mrs. Mears stated that, to date, approximately 3,000 new acres of farmland have been irrigated with assistance from the program. Mrs. Mears also discussed the LIFT Program, created in 2009, which is geared towards making bank payments on behalf of businesses. Mrs. Mears added that there were a total of 47 loans in the LIFT program.

Mr. Sears asked for clarification regarding the repayment process, specifically in reference to the 12 loans that were past due, according to the Portfolio Summary spreadsheet. Mrs. Mears stated that the majority of the past due repayments were from LIFT recipients, as the nature of the program was to assist projects that were in need of financial assistance during the peak of the most recent recession.

#### **EXECUTIVE SESSION:**

Mr. Lubin made a motion that the Council go into Executive Session pursuant to 29 Del. C. §10004(b) to conduct a strategy session for the purpose of obtaining legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation related to collection issues, which if conducted in an open meeting, would have an adverse effect on the bargaining or litigation position of the Authority, which do not constitute public records within the meaning of 29 Del. C., § 10002(l). The motion was seconded by Mr. Sears which was then adopted by unanimous vote.

Mr. Sears made a motion that the Council go out of executive session. The motion was seconded by Mr. Haskins which was then adopted by unanimous vote.

**ADJOURNMENT**

The meeting adjourned at 9:50 a.m.

Respectfully submitted,

Emily Baird, Portfolio Administrator

*ESB*

cc: Members of the Council on Development Finance  
Director Bernice Whaley  
Lawrence Lewis, DAG

The next CDF meeting is scheduled for Monday, January 25, 2016 at 9:00 A.M. at Buena Vista in New Castle, Delaware.