PHED Committee #6
April 22, 2014

MEMORANDUM

April 18, 2014

TO: Planning, Housing and Economic Development Committee

FROM: Jacob Sesker, Senior Legislative Analyst

SUBJECT: FY15 Operating Budget: Economic Development Fund

Those expected to attend this worksession include:

Steve Silverman, Director, DED
Peter Bang, Chief Operating Officer, DED
Jahantab Siddiqui, OMB

Relevant pages from the FY15 Recommended Budget are attached at © 1-4.

Staff Recommendation: Make two adjustments to the EDF budget:

1. **Reduce EDF budget by $500,000 in FY15 to $1,850,567**
2. **Include the following budget provision: "The Department of Economic Development may, after reporting to the Council, allocate to other Economic Development Fund programs a total of up to $250,000 previously appropriated to the Economic Development Fund for the Green Investor Incentive Program."**

Overview

The mission of the Economic Development Fund (EDF) is to assist private employers who are located, or plan to locate or substantially expand operations, in the County. While there are four separate programs that are related to the Economic Development Fund, this year, as in most years, the lion's share of the appropriation request relates to the Economic Development Grant and Loan Program. Each year, the Department of Economic Development compiles a report on the Economic Development Fund—the most recent report was transmitted to the Council in March. *See EDF Annual Report, © 8-27.*

In FY14, the Council originally approved an operating budget of $3,396,828. In FY15, the Executive requests $2,350,567, representing a decrease of $1,046,261. The reduced budget for the EDF does not reflect a policy shift away from providing economic development incentives, but rather reflects the fact many of the incentives awarded must, by law, be appropriated in a supplemental or special appropriation, rather than as part of the annual operating budget process.

Change	*Expenditures*	*FTEs*
FY13 Original Appropriation	**$3,396,828**	**1.00**
Add: Cybersecurity Investment Tax Credit	$500,000	0.00
Increase Cost: FY15 Compensation Adjustment	$3,549	0.00
Increase Cost: Group Insurance Adjustment	$190	0.00
Decrease Cost: Elimination of One-Time Items Approved in FY14	($1,550,000)	0.00
FY14 Recommended	**$2,350,567**	**1.00**

FY15 Expenditure Issues

FY15 Summary

The FY15 recommended budget of the Economic Development Fund includes the following:

Economic Development Fund Budget	*FY15 CE rec*
Total	**$2,350,567**
Small Business Revolving Loan Program	$77,591
Economic Development Fund Grant and Loan Program (EDFGLP)	**$2,272,976**
Total EDFGLP	**$2,272,976**
Personnel	$125,976
Capital outlay	$0
Meso Scale Diagnostics	$167,000
Choice Hotels	$150,000
Cybersecurity tax credit	$500,000
Biotech tax credit	$500,000
Green Investor Incentive Program	$500,000
Undesignated	*$330,000*

Awards to Meso Scale Diagnostics and Choice Hotels are pursuant to Economic Development Fund Agreements (EDFAs) executed in prior years. The Executive recommended funding three tax credit programs (cybersecurity, biotech, and green investor) at $500,000 each in FY15. The remaining balance of $330,000 is undesignated—a portion of which would presumably fund administrative expenses or consultant studies, and some of which could be used to make small awards (e.g., under $100,000), equity investments, or for the announced-but-unfunded Make Office Vacancies Extinct (MOVE) Program.

Biotechnology Investor Incentive Program

The Biotechnology Investor Incentive Program was approved by the County Council in FY11 and, like the new Cybersecurity Investment Tax Credit Supplement, supplements a parallel state program. Qualified investors who receive the tax credit from the State for investment in companies located in Montgomery County are eligible to receive the County's incentive. From FY11 through FY13, all funds appropriated ($500,000 per year) have been spent. *See EDF Annual Report © 19.*

Staff Recommendation: Approve.

Cybersecurity Investment Tax Credit

This new program was created with passage of Bill 25-13 in FY14. The program was not funded in the FY14 operating budget and was not funded by supplemental appropriation during the first three quarters of the fiscal year. DED will begin marketing the program, in conjunction with the State of Maryland, once funding is approved.

The Cybersecurity Supplement Program is similar to the Biotech Investor Incentive Program insofar as it relates to a State tax credit program. It is different from the Biotech Investor Tax Credit insofar as the County supplement will be given to the cybersecurity company rather than to its qualified investors.

State of Maryland funding for this program is $4.0 million for FY15, up from $3.0 million in FY14, which was the first year of the program. Department of Business and Economic Development (DBED) expects all FY14 credits to be disbursed by the end of June. The short history of the State's program makes it difficult to project demand for the County's supplement.

Since the EDF is a continuous and non-lapsing fund, funds appropriated in FY15 for the Cybersecurity Investment Tax Credit Supplement but not spent in FY15 will remain available until expended.

Staff Recommendation: Approve.

Green Investor Incentive Program

In FY14, the EDF budget included $500,000 for the Green Investor Incentive Program. The Green Investor Incentive Program (Bill 40-12) was introduced in December of 2012 and enacted on April 16, 2013. Unlike the Biotechnology Investment Tax Credit and the Cybersecurity Investment Tax Credit, the Green Investor Incentive Program is not a supplement to a Maryland tax credit.

At the time the Council adopted Bill 40-12 and appropriated funding to the EDF, there was scant information regarding the number of applications that the County was likely to receive in FY14. However, Staff noted that it was likely that FY14 expenditures would fall short of the $500,000 appropriated amount. Staff noted, however, that the EDF is a continuous and non-lapsing fund, and therefore any remaining balance at the end of FY14 would carry forward into FY15.[1]

[1] Under §20-73, this fund is continuing and non-lapsing.

Indeed, to date in FY14, no companies qualified for and received funding from the EDF through the Green Investor Incentive Program. *See Q & A, © 5-7.* Consequently, the EDF carries a $500,000 balance for this program. With no awards made through the first nine months and given the $50,000 ceiling on incentive payments to Green Investor Incentive Program recipients, it is reasonable to conclude that the $500,000 already appropriated in FY14 is more than enough to meet FY15 demand, and that no additional FY15 appropriation is necessary at this time. In fact, Staff recommends allowing DED to allocate up to $250,000 of the funds appropriated in FY14 for the Make Office Vacancies Extinct Program.

Staff Recommendation: Reduce FY15 Recommended EDF budget by $500,000. Include the following budget provision: "The Department of Economic Development may, after reporting to the Council, allocate to other Economic Development Fund programs a total of up to $250,000 previously appropriated to the Economic Development Fund for the Green Investor Incentive Program."

Make Office Vacancies Extinct (MOVE) Program

This spring, DED announced a new program intended to reduce office vacancies. This is a new program, and the Executive did not recommend specific funds for this program, although DED could use the undesignated portion of the FY15 recommended EDF budget.

Under the program, the County would provide $4 per square foot to offset the cost of the first year of a company's first lease of Class A or Class B office space in Montgomery County. To qualify, applicants must meet the following criteria:

1. *The applicant must operate primarily in the information-technology, life science, cyber-security or green technology industries, as evidenced by objective documentation (i.e. business plan, business proposal, client list, etc.).*
2. *The applicant has signed a commercial lease with a landlord for at least three years for Class A or Class B commercial office building in the county. In the case of a life science company, leased lab space would qualify under this program.*
3. *Total commercial space leased must be at least 2,000 rentable square feet but no more than 10,000 rentable square feet.*
4. *The lease date must begin after March 18, 2014, and the application receipt date must be within 90 days of the signed lease date.*

Given the eligibility parameters, the cost of each eligible recipient in FY15 would range from $8,000 to $40,000.

Staff recommends above (see Green Investor Incentive Program) that the Council should include a budget provision allowing DED to allocate up to $250,000 of the $500,000 previously appropriated to the EDF for the Green Investor Incentive Program in FY14 to use for other EDF programs after July 1, 2014. This will provide DED with flexibility to determine which EDF programs represent the best use of EDF balance in FY15.

Staff Recommendation: See above.

OIG Report 14-005, Bethesda Cultural Alliance

On March 19, 2014, the Office of the Inspector General (OIG) issued a report related to its inquiry of an Economic Development Fund grant of $1.5 million to Bethesda Cultural Alliance in 2006 that was connected to the renovation of the Bethesda Theatre. *See © 28-43.* The objective of the inquiry was to determine whether the information provided to the Council was complete and accurate.

OIG made the following findings (and specific recommendations related to each finding):

1. The regulation governing the analyses of EDF applicants' financial viability lacks specificity, and its intent is unclear.
2. Council and public consideration of the County EDF grant was based on information containing an incorrectly applied multiplier.
3. Information provided to the Council regarding the State MEDAAF grant for the theatre did not disclose (a) that the County would be the MEDAAF grant recipient and (b) that the County could be obligated to repay the State, or (c) other terms of the MEDAAF grant affecting the County.

The Chief Administrative Officer acknowledged the OIG report and indicated that the County would respond to the OIG's findings and recommendations by (1) amending the regulation regarding the Economic Development Fund, (2) agreeing that any EDF transaction involving economic impact analysis using multipliers (of indirect and induced effects) will be reviewed by outside experts for applicability and accuracy, and (3) that DED and the State AG's Office will work to modify the template MEDAAF resolution document, to clearly convey to the County Council information regarding who is receiving the award, regarding any obligation on the part of the County to pay the State, and any grant or loan requirements involving the County. *See © 42-43.*

DED has begun its work to implement changes to the EDF regulation and also to the MEDAAF resolution template. With respect to expert review of any use of economic multipliers in EDF transactions, Staff would simply acknowledge that such review will impact the EDF budget.

Referring to the information at the beginning of this memorandum, the FY15 budget request includes a request for $330,000 for which no purpose is specified. In recent years, roughly $40,000 has been earmarked for consulting studies or professional services associated with the EDF budget. In FY14, the Council added a position in the Finance and Administration Division; this position has reduced the Division's need for professional services, but it remains true that complex or unique economic development fund projects frequently require analysis by outside experts.

Attachments:	© 1	Recommended FY14 Operating Budget: EDF
	© 5	Council Staff Budget Q & A
	© 8	EDF Annual Report
	© 28	OIG Report 14-005 Bethesda Cultural Alliance

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Economic Development Fund

MISSION STATEMENT

The mission of the Economic Development Fund (EDF) is to assist private employers who are located, plan to locate, or substantially expand operations in the County. Each program under the EDF is administered by the Department of Finance and by the respective departments as noted below.

BUDGET OVERVIEW

The total recommended FY15 Operating Budget for the Economic Development Fund is $2,350,567, a decrease of $1,046,261 or 30.8 percent from the FY14 Approved Budget of $3,396,828. Personnel Costs comprise 5.4 percent of the budget for no full-time positions, and a total of one FTE. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating Expenses account for the remaining 94.6 percent of the FY15 budget.

The Executive considers economic development and investment opportunities as they arise and upon review and approval of an EDF transaction or agreement, a supplemental appropriation is submitted to the County Council for approval.

LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

- ***Healthy and Sustainable Neighborhoods***
- ***Strong and Vibrant Economy***

ACCOMPLISHMENTS AND INITIATIVES

- ***The County introduced two programs in FY14 to promote strategic industry growth by providing incentives for private investments in green technology and Cybersecurity companies. The Executive recommends $500,000 in funding for the Green Technology Investor Incentive Program and $500,000 in funding for the Cybersecurity Investment Tax Credit Supplement Program.***
- ***The Biotech Tax Credit Supplement Program awarded credits to 46 investors, who contributed over $7 million to ten biotech companies in 2013.***
- ***Facilitated the retention and expansion of Emergent Biosolutions, Inc. in the County, and the addition of 133 new jobs to its current 235 employee base.***
- ***Facilitated the retention and expansion of Sodexo, Inc. in the County, and the addition of 50 new jobs to its 567 employee base.***
- ***Facilitated the retention and expansion of Precision for Medicine, Inc. in the County, and the addition of 59 new jobs to its 16 employee base.***
- ***The Department of Economic Development works continually with the business community to identify opportunities for business attraction and retention. As opportunities arise for economic development, the Executive submits a supplemental appropriation to the County Council for approval.***

PROGRAM CONTACTS

Contact Peter Bang of the Economic Development Fund at 240.777.2008 or Jahantab Siddiqui of the Office of Management and Budget at 240.777.2795 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Demolition Loan Program

The Demolition Loan Program was established in FY99. This program is administered by the Department of Housing and Community Affairs and helps owners of obsolete, underutilized commercial buildings by defraying the cost of demolishing and clearing the land.

FY15 Recommended Changes	Expenditures	FTEs
FY14 Approved	**0**	**0.00**
FY15 CE Recommended	**0**	**0.00**

Economic Development Grant and Loan Program

The Economic Development Grant and Loan Program was established in FY96 to assist private employers who will either retain jobs already in the County or create additional jobs in the County through the expansion of current operations or relocation of new operations in the County. This program is administered by the Department of Economic Development (DED) through its Finance and Administration Division. DED identifies and develops prospects that meet the criteria for a grant or loan from the EDF and then develops an assistance package. Frequently, DED works in close cooperation and coordination with the State of Maryland. The County Executive submits an annual report by March 15 on the status and use of the EDF as required by Chapter 20-76 (b) of the Montgomery County Code.

FY15 Recommended Changes	Expenditures	FTEs
FY14 Approved	**3,096,828**	**1.00**
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	-823,852	0.00
FY15 CE Recommended	**2,272,976**	**1.00**

Technology Growth Program

The Technology Growth Program was created in FY99 to facilitate the growth of technology-based companies located or desiring to relocate in the County. Financial assistance is based on the evaluation of the technology and the innovation proposed, along with potential impact for the County. The program is aimed at leveraging private-sector financing and State Challenge and Equity Investment funds. The program is administered by the Department of Economic Development. The Biotech Tax Credit Supplement Program, established in FY10, provides additional incentive for investors who invest in Montgomery County biotech companies and works in conjunction with the State of Maryland Biotechnology Investment Tax Credit Program. Investors who qualify under the State's Program receive an additional supplement for their investment in a Montgomery County biotech company. The Green Investor Incentive Program, established in FY14, provides financial incentives to investors of qualified green companies in Montgomery County, encouraging the development of innovative green technologies.

FY15 Recommended Changes	Expenditures	FTEs
FY14 Approved	**0**	**0.00**
FY15 CE Recommended	**0**	**0.00**

Small Business Revolving Loan Program

The Small Business Revolving Loan Program was established in FY00 and is administered by the Department of Economic Development. The program augments a grant from the Maryland Economic Development Assistance Authority and Fund Act under Senate Bill 446 to finance economic development projects that do not receive priority consideration from institutional lenders or other public sources because they are in a non-priority industry sector, a non-priority transaction site, and/or cannot fully satisfy the credit requirements of a conventional loan. The program offers secured loans typically in the range of $25,000 to $100,000.

FY15 Recommended Changes	Expenditures	FTEs
FY14 Approved	**300,000**	**0.00**
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	-222,409	0.00
FY15 CE Recommended	**77,591**	**0.00**

BUDGET SUMMARY

	Actual FY13	Budget FY14	Estimated FY14	Recommended FY15	% Chg Bud/Rec
ECONOMIC DEVELOPMENT FUND					
EXPENDITURES					
Salaries and Wages	96,204	96,591	97,415	99,660	3.2%
Employee Benefits	31,023	25,646	25,182	26,316	2.6%
Economic Development Fund Personnel Costs	***127,227***	***122,237***	***122,597***	***125,976***	***3.1%***
Operating Expenses	6,807,989	3,274,591	9,903,911	2,224,591	-32.1%
Capital Outlay	0	0	0	0	—
Economic Development Fund Expenditures	***6,935,216***	***3,396,828***	***10,026,508***	***2,350,567***	***-30.8%***
PERSONNEL					
Full-Time	0	0	0	0	—
Part-Time	0	0	0	0	—
FTEs	1.00	1.00	1.00	1.00	—
REVENUES					
Investment Income	31,922	0	35,550	68,980	—
Loan Payments	139,716	94,970	94,970	94,970	—
Miscellaneous Revenues	282,522	0	0	0	—
Economic Development Fund Revenues	***454,160***	***94,970***	***130,520***	***163,950***	***72.6%***

FY15 RECOMMENDED CHANGES

	Expenditures	FTEs
ECONOMIC DEVELOPMENT FUND		
FY14 ORIGINAL APPROPRIATION	**3,396,828**	**1.00**
Changes (with service impacts)		
Add: Cybersecurity Investment Tax Credit	500,000	0.00
Other Adjustments (with no service impacts)		
Increase Cost: FY15 Compensation Adjustment	3,549	0.00
Increase Cost: Group Insurance Adjustment	190	0.00
Decrease Cost: Elimination of One-Time Items Approved in FY14	-1,550,000	0.00
FY15 RECOMMENDED:	**2,350,567**	**1.00**

PROGRAM SUMMARY

Program Name	FY14 Approved Expenditures	FY14 Approved FTEs	FY15 Recommended Expenditures	FY15 Recommended FTEs
Demolition Loan Program	0	0.00	0	0.00
Economic Development Grant and Loan Program	3,096,828	1.00	2,272,976	1.00
Technology Growth Program	0	0.00	0	0.00
Small Business Revolving Loan Program	300,000	0.00	77,591	0.00
Total	**3,396,828**	**1.00**	**2,350,567**	**1.00**

FUTURE FISCAL IMPACTS

Title	CE REC. FY15	FY16	FY17	($000's) FY18	FY19	FY20
This table is intended to present significant future fiscal impacts of the department's programs.						
ECONOMIC DEVELOPMENT FUND						
Expenditures						
FY15 Recommended	**2,351**	**2,351**	**2,351**	**2,351**	**2,351**	**2,351**
No inflation or compensation change is included in outyear projections.						
Subtotal Expenditures	***2,351***	***2,351***	***2,351***	***2,351***	***2,351***	***2,351***

FY15 OPERATING BUDGET QUESTIONS FOR EDF

1. **Small Business Revolving Loan Program: What is the multi-program adjustment here that is causing a reduction of $222,409?**

   Adjustments are a result of removing one-time funded items and adjustments to revenues.

2. **When I add up everything in the budget I get $330,000 as undesignated. Please explain the intent with that balance and confirm my math.**

	FY15 CE rec
Total	**$2,350,567**
Small Business Revolving Loan Program	$77,591
EDFGLP	$2,272,976
Total EDFGLP	**$2,272,976**
Personnel	$125,976
Capital outlay	$0
Meso Scale Diagnostics	$167,000
Choice Hotels	$150,000
Cybersecurity tax credit	$500,000
Biotech tax credit	$500,000
Green Investor Incentive Program	$500,000
????	$330,000*

   Are you assuming approx. $40,000 in admin costs in FY15 (as in FY14, per EDF Annual Report)? If so then I guess it is just the remaining $290,000 that I am interested in learning more about.

   $330,000 is a placeholder funding for smaller EDF Grants and Loan Programs. If we do not have this small sum available, EDF can quickly become dysfunctional as every EDF transaction, regardless of the size, has to go through a Council approval for a supplemental appropriations.

   $40,000 in Adm costs will decrease in FY15. Since a new position was added in FY14, we no longer require hiring contractor for adm. support. However, some adm. cost will be charged each year moving forward, due to a decision to utilize an outside expert on unconventional transactions (i.e. hiring Bolan Smart for the City Place project) to conduct due diligence and fiscal impact analysis.

3. **Please provide update on status of cybersecurity tax credit (marketing efforts, interest or evidence of demand, etc.).**

   No marketing effort has been made to this date as there will not be a program until the County Council approves the County Executive's recommendation of $500K in FY15. The State just started the Program effective 1/1/2014. Once the County's FY15 budget is approved, DED will coordinate with the State in joint marketing and use various medium to market the program.

4. **Please provide update on status of biotech tax credit (FY13 actuals, FY14 YTD, marketing efforts, interest or evidence of demand, etc.).**

   DED does not market the program using collateral material, as we are embedded in the State's Biotech Tax Credit Program (State's website has County's program information) and the State's program is so well known—the State's $10 million ($12 million for FY15) credit is fully committed within a first few hours of the application opening date every year. DED does, however, market the program anytime we meet life sciences companies, potential investors, and attend biotech related functions/tradeshows.

   For 2012 calendar year (using FY13 funding of $500,000):

   - 61 investment transactions to 11 companies in the County received the State's tax credit
   - $6,253,987 in total investment was made ranging from $25,000 to $500,000.
   - 61 investors (not all unique) received $1,998.73 (for $25K investment) to $39,974.58 (for $50K investment) during the spring of 2013.

   For 2013 calendar year (using FY14 funding of $500,000):

   - 51 investment transactions to 10 companies in the County received the State's tax credit
   - $7,053,000 in total investment was made ranging from $25,000 to $500,000.
   - DED is currently processing the 1st payment batch (investors have to supply the County with W-9 forms to register as a vendor to receive payment).

5. **Please provide update on status of green investor incentive program (FY13 actuals, FY14 YTD, marketing efforts, interest or evidence of demand, etc.).**

   To this date, DED has engaged in the following to promote the program but has not received any applications:

- DED/Berliner/Bethesda Green promotion at the Investor Training Workshop, June 2013
- DED/CE Press Release on July 25, 2013
- DEP sent emails in mid-August to various networks including econ-entrepreneurs, investor types, and law firms who have (or intend to create) a "green" practice area of expertise
- DED /Green Investor Incentive Program was the lunchtime speaker series topic at Bethesda Green, September 26, 2013
- DEP promotion at the MCEC Clean Energy Summit, October 2013
- January Green Business Certification e-Newslettter, January 2014
- Discussed investor incentive with businesses at networking events, specifically ARPA-e in February, 2013
- DED/Feature Story, DED e-Newsletter, March 2014
- DED – Will present Green Investor Incentive Program at the April, 2014 MCCC Green Business Forum.
- Answered 3 inquiries via email/phone call

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DED currently is working with a company by the name of Solvista located in the Silver Spring Innovation Center going through an Angel Investment round. Their investor likely will be the first recipient(s) of the program.

At the beginning of FY15, DED will evaluate overall feedbacks from the business community and propose to the CE/CC, if necessary, either programmatic or legislative changes to make the Green Investor Incentive Program more active.

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Montgomery County
Economic Development Fund
Annual Report

For the Year Ended February 28, 2014

Prepared by
Department of Economic Development

Table of Contents

I. Introduction

The purpose of this report is to summarize and analyze the activities for all of the programs under the Montgomery County Economic Development Fund (EDF or Fund). The Fund was created in 1995 by the County Council to provide financial assistance to private employers who retain jobs and/or stimulate job creation in the County. The Fund's Executive Regulations give special attention to strategic industries, including high-technology and manufacturing companies, businesses in areas of urban revitalization, or other private employers that offer a significant public benefit. The Fund is managed by the Montgomery County Department of Economic Development (DED) in conjunction with Montgomery County Department of Finance (DOF). Included with this report is a summary about the County's Tax Credit Programs.

The County Council has expanded the use of the Fund over the years by establishing sub-programs within the Fund. At the time of this report, there are six active sub-programs. The following is a list of all the sub-programs, including the fiscal year (FY, runs from July 1st to June 30th of the following year) the sub-program was created.

Table 1: Historic Summary for EDF Program

Active Programs	Year Established	Cumulative Assistance Provided
Economic Development Fund Grant and Loan Program (EDFGLP)	FY96	$39,102,150
Technology Growth Program (TGP)	FY99	$4,055,000
Small Business Revolving Loan Program (SBRLP)	FY00	$2,117,500
Biotech Tax Credit Supplement Program (Biotechnology Investor Incentive Program)	FY12	$1,000,000
Green Investor Incentive Program (GIIP)	FY13	$0
Cybersecurity Investment Tax Credit Supplement Program (Cybersecurity Supplement Program)	FY14	$0
Small Business Assistance Program	FY13	$0
Inactive or Discontinued Programs	**Year Established**	**Cumulative Assistance Provided**
Emergency Agricultural	FY98	$1,500,000
Demolition Loan	FY00	$100,000
Export Montgomery	FY01	$12,000
Micro-Enterprise	FY08	Merged into SBRLP

Since the last Annual EDF Report, the County's Office of Legislative Oversight published Report 2013-2. This report assessed the practices of Montgomery County's incentive programs and provided recommendations to strengthen the data collection and reporting of the EDF program. In addition, the County Council adopted Bill 14-12 in 2013. This Bill requires that the County collect more information to enable better analyses following disbursement of EDF funds. Where possible, DED has attempted to address these changes in this year's report. Future reports will continue to incorporate these changes as DED has the opportunity collect the recommended data.

II. Overview of EDF Program

A. EDF Program Objectives

The EDF program is one of the County programs that incentivize businesses to relocate or remain in Montgomery County. The Fund is flexible enough to meet a variety of business and industry needs through the different sub-programs. This flexibility has allowed the County to attract and retain strategic businesses of all sizes during the recent economic recession.

Bill 14-12 requires that the objectives of the EDF program align with the economic development strategic plan. The 2014 Strategic Plan has six areas of focus.

1) A Bird in the Hand – Company Retention
2) Bigger is Better – Company Growth
3) Smart Growth = Strategic Growth – Focused Development
4) Increasing the Size of the Table – Focused effort with minority- or women-owned businesses
5) Building for Our Future – Focused effort with entrepreneurs
6) Telling the MoCo Story – Focused Marketing

The EDF program advances the County's economic goals under the strategic plan by positioning the County to more easily retain and grow businesses. Though the objective for business attraction and retention accounts for the most recipients and funding, there are additional objectives that the EDF program has.

- **Generating Economic Impact** – By incentivizing businesses to relocate or remain in the County, the County directly benefits through the revenue generated by the jobs and property taxes. In addition, this direct impact spurs further economic impact through the creation of secondary jobs, services, and investments.
- **Providing Financial Assistance to Businesses** – The cost of doing business in the County continues to grow. Through the various EDF sub-programs, the County can meet current and future business needs across a variety of industries.
- **Leveraging State Funding** – The EDF program allows businesses in the County to access similar programs at the State-level. The combined funds between the

County and State can leverage greater economic impact than if the County was responsible for funding projects alone.

- **Serving as an Economic Development Barometer** – Through the analyses and processes required by the Fund, DED is able to learn and assess current business practices and market trends that would be otherwise difficult to obtain. These analyses allow the County to better guide its economic development policies.
- **Cultivating Long-Term Relationship with Resident Businesses** – Through annual performance monitoring, DED is able to maintain active, productive relationships with many of the key employers in the County.
- **Providing Access to Capital for Small Businesses** – The Small Business Revolving Loan Program provides much needed capital to local, small businesses that are unable to secure traditional loans.
- **Provide Incentives to Investors in Strategic Industries** – The Biotechnology Investor Incentive Program, Cybersecurity Supplement Program, and Green Investor Incentive Program allow the County to spur investment into the County's strategic industries.

B. EDF Program Operations

Each program under the EDF requires DED to screen and evaluate each candidate prior to funding. Some of the typical analyses performed are:

- A fiscal impact analysis developed by DOF
- A technology and commercialization feasibility analysis
- A credit worthiness and debt repayment capacity analysis
- A secondary and tertiary economic impact analysis
- An analysis of the strategic significance of the project
- Other important facts as seen relevant by DED and DOF

DED in cooperation with DOF uses these analyses and procedures to ensure that the funds disbursed will have a positive fiscal impact to the County and/or that the County's strategic objectives are met. All offers of financial assistance are contingent upon the availability of the funds, disbursement criteria, and post-funding performance requirements.

C. EDF Program Budget

The EDF is "continuing and non-lapsing" by law. This means that the any unspent funds are available for use in the next fiscal year. The EDF funds consists of dollars appropriated by the County Council, loan repayments, interest earned on the fund, and funds received from any other public or private entity, such as the State of Maryland. The appropriation approved for FY 2014 for the EDFGLP is for regular transactions that are less than $500,000. Based on Bill 14-12, any offer of assistance with a total amount more than $500,000 must be approved by the Council through a supplemental appropriation.

Table 2: Summary of Appropriation and Budget for EDF Program for Fiscal Year 2014(as of 2/28/2014)

FY14 Appropriation (including supplemental) for All Programs*	$	5,646,828
FY13 Year End Cash Balance carried over (based on CAFR report)	$	4,665,192
Total Appropriation for All Programs for FY14	**$**	**10,312,020**
FY14 Year-to-Date Disbursement for All Programs:		
EDFGLP	$	5,727,150
TGP	$	-
SBRLP	$	25,000
Equity Investment Program	$	55,000
Biotech Tax Credit Supplement Program	$	-
Green Investor Incentive Program	$	-
Cyber-Security Tax Credit Supplement Program	$	-
Small Business Assistance Program	$	-
Community Legacy Program Loan paid back to State DHCD	$	50,055
Estimated Administration Cost for FY14	$	40,000
Estimated Personnel Cost for FY14 (Full Year Reserve)	$	120,000
Total	**$**	**6,017,205**
Available Fund Balance for All Programs for Remaining FY14	$	4,294,815
Reserved for SBRLP (estimated)	$	1,229,668
Reserved for Cybersecurity Tax Credit Supplement Program	$	-
Reserved for Green Investor Incentive Program	$	500,000
Reserved for Biotech Tax Credit Supplement Program for FY13	$	167,851
Reserved for Biotech Tax Credit Supplement Program for FY14	$	500,000
Total	**$**	**2,397,519**
Available Fund Balance for EDFGLP	**$**	**1,897,296**
Reserved for Committed Transactions Pending Disbursement		
Zyngenia	$	500,000
Choice Hotel HQ	$	176,000
Sucampo Pharmaceutical	$	200,000
Meso Scale	$	167,000
Total	**$**	**1,043,000**
Remaining Balance for FY14 for regular EDFGLP transactions	**$**	**854,296**
Remaining Committed Transactions Pending Disbursements *subject to appropriation or supplemental appropriation		
Meso Scale	$	167,000
Choice Hotel	$	880,000
HHS Retention Project*	$	19,500,000
NOAA Retention Project*	$	12,000,000

*Note: The financial offers for HHS Retention Project and NOAA Retention Project are based on certain percentage of incremental value of real property taxes after the property is revitalized and reassessed.

III. Summary of EDF Sub-Programs

There are six active EDF sub-programs that DED currently administers. Each sub-program allows the County to concentrate its assistance efforts toward specific goals. The following sections summarize the last ten years for each sub-program. This was done to provide a summary that best matched the current economic climate and allows for better analysis of recently closed cases.

A. EDF Grant and Loan Program

The Economic Development Fund Grant and Loan Program (EDFGLP) was the original program created in 1995. It continues to account for the largest activity and expenses of all sub-programs under the EDF.

The EDFGLP is intended to incentivize job growth and capital investment within the County by providing financial assistance to businesses that plan to relocate or remain and expand in the County. The typical structure of an EDFGLP transaction is a conditional grant to the business. The conditional grant will become a permanent grant so long as a business meets specific goals throughout the term of the conditional grant. For more details about the goals, refer to the Performance and Outcome EDFGLP section below.

Each year DED receives a number of applications from businesses requesting assistance. The number of new cases varies year-to-year based on the EDF funding level and the evaluation of applicants. The following table lists the recipients that received assistance from the EDFGLP for Report Year 2014 (RY 2014, March 1st, 2013 to February 28th, 2014).

Table 3: EDFGLP Recipients for Report Year 2014

Recipient Name	Value	Purpose	Industry	Location
Brain Sentry	$75,000	Retain & Expand	Technology and Info. Tech	Bethesda
Brainscope Company	$85,000	Retain & Expand	Biotechnology	Bethesda
Choice Hotels International	$1,920,150	Retain & Expand	Hospitality and Retail	Rockville
Cobrain Company	$90,000	Retain & Expand	Technology and Info. Tech	Bethesda
Emergent Biosolutions Inc.	$750,000	Retain & Expand	Biotechnology	Rockville
M. Luis Construction Company	$75,000	Attraction	Other	Silver Spring
Maxtena	$100,000	Retain & Expand	Technology and Info. Tech	Rockville
Meso Scale Diagnostics	$167,000	Retain & Expand	Biotechnology	Rockville
Precision for Medicine	$200,000	Retain & Expand	Biotechnology	Bethesda
Social & Scientific Systems	$350,000	Retain & Expand	Technology and Info. Tech	Silver Spring
Sodexo	$1,500,000	Retention	Hospitality and Retail	Gaithersburg
Total Wine & More	$500,000	Retain & Expand	Hospitality and Retail	Bethesda

- The County provided $5.8 million in assistance to 12 recipients for RY 2014.
- 83% of the recipients were for retention and expansion purposes.
- DED made several offers to attract new companies, including CVENT and MedStar Health, but the companies did not accept the County's offer.

DED has several cases that are approved for funding but have not yet been disbursed. A list of the current approved cases is below.

Table 4: Ongoing and Future Transactions

Recipient Name	Funding Amount	Estimated FY of Funding	Purpose	Industry	Location
Choice Hotels International	$176,000 for 6 Years	FY 2015	Retain & Expand	Hospitality and Retail	Rockville
Fishers Lane (HHS Project)*	Up to $1,300,000 for 15 Years	FY 2017 - 2032	Retain & Expand	Revitalization	Rockville
Foulger Pratt (NOAA Project)*	Up to $800,000 for 15 Years	FY 2016 - 2031	Retain & Expand	Revitalization	Silver Spring
Meso Scale Diagnostics*	Up to $167,000 for 10 Years	FY 2014 - 2023	Retain & Expand	Biotechnology	Rockville
Sucampo Pharma	$200,000	FY 2015	Retain & Expand	Biotechnology	Bethesda
Zyngenia, Inc.	$500,000	FY 2015	Attraction	Biotechnology	Gaithersburg

* The disbursement amount for these projects will be calculated based on the actual incremental value in real property taxes after the properties are revitalized and reassessed.

- The three projects that are for incremental real property taxes paid account for 71% of the current projected fund use.
- Except one, all of the future recipients are for the purpose of retention and expansion.

Since the number of recipients and the funding amount can vary from year-to-year for the EDFGLP, it is beneficial to summarize the activity for the last ten years. The following tables include all funded EDFGLP cases, whether still open or closed, from FY 2004 – FY 2014.

Table 5: Ten-Year Summary for EDFGLP

Assistance Provided	$25.2 million
Recipients	62
Range of Conditional Grants	$10,000 to $6 million

- The average amount of the EDFGLP conditional grant was $418,000 over the past ten years.

The following table provides additional detail about the EDFGLP for the past ten years based on selected categories.

Table 6: Ten-Year Summary for EDFGLP by Select Category

	Recipients		Funding Amount	
	Number	% of Total	Value	% of Total
Purpose of Conditional Grant				
Attract	29	47%	$18,255,000	70%
Retain	1	2%	$350,000	1%
Retain and Expand	32	52%	$7,322,150	28%
Range of Conditional Grant				
$0 - $50,000	23	37%	$885,000	3%
$100,001 - $500,000	13	21%	$3,262,000	13%
$50,001 - $100,000	18	29%	$1,555,000	6%
More than $500,000	8	13%	$20,225,150	78%
Industry				
Association and Non-Profit	1	2%	$1,875,000	7%
Biotechnology	21	34%	$3,402,000	13%
Business Services	6	10%	$570,000	2%
Education and Healthcare	2	3%	$180,000	1%
Hospitality and Retail	6	10%	$4,270,150	16%
Other	7	11%	$925,000	4%
Revitalization	3	5%	$13,180,000	51%
Technology and Info. Tech	16	26%	$1,525,000	6%
Location				
Bethesda	15	24%	$2,920,000	11%
Clarksburg	2	3%	$375,000	1%
Gaithersburg	8	13%	$1,790,000	7%
Germantown	5	8%	$720,000	3%
Potomac	2	3%	$550,000	2%
Rockville	19	31%	$8,257,150	32%
Silver Spring	8	13%	$1,275,000	5%
Wheaton	3	5%	$10,040,000	39%

- The number of EDFGLP recipients were near equal for purposes of business attraction or business retention and expansion; however, business attraction received 70% of the funding dollar over the past ten years.
- 60% of the recipients were either in the Biotechnology or Technology and Info. Tech industries.

There are several EDF cases that the State of Maryland can partner with the County when attracting or retaining larger companies. For many of these cases, the State provides more than twice the amount of assistance that the County plans to provide. The following table summarizes the State investment compared to the County investment over the past ten years.

Table 7: County Dollars Leveraged by State Dollars

Projects Complemented by State Funding	26
Total Amount of County Funding	$10,222,150
Total Amount of State Funding	$21,930,000
State Leverage per County Dollar	$2.15

Note: There were 62 projects over the past ten years.

B. Technology Growth Program

The Technology Growth Program (TGP) was established in FY 1999 to provide assistance to early-stage high technology companies located in or planning to locate in the County. The typical structure of a TGP transaction is a conditional grant to the business that would become a loan after the company achieved specific equity or revenue goals. The program is inactive at this point due to funding and limited growth capital within the market, but there are still open cases from the previous years of funding. The following summary is for cases that were funded between FY 2004 – FY 2014.

Table 8: Ten-Year Summary for TGP

Assistance Provided	$3,065,000
Recipients	57
Range of Conditional Grants	$5,000-$100,000

C. Small Business Revolving Loan Program

The Small Business Revolving Loan Program (SBRLP) was created in FY 2002 to assist small businesses that lacked access to traditional private and public funding sources. SBRLP continues to provide financial assistance to small businesses in Montgomery County and facilitates business development through direct loans and augmenting loans made by other financial institutions.

The SBRLP was seed-funded through a combination of $1,100,000 from the County and $1,000,000 from the State of Maryland. From this pool, the County provides low-interest loans to qualified, small businesses in the County. The SBRLP balance is replenished when these businesses pay-off loans with interest. Due to the economic recession and financial condition of the businesses that received assistance through the SBRLP, the original base amount of $2,100,000 has been reduced over the years from writing-off principals.

Table 9: FY 2014 Appropriation and Year-to-Date Fund Balance

Current SBRLP Fund Balance		
FY13 Year End Fund Balance carry over (estimated)	$	829,668
Restore $400,000 (transferred out in FY10 due to budget saving)	$	400,000
Total Fund Balance for FY14	**$**	**1,229,668**
FY14 Year-to-Date Disbursement & Commitments	$	(25,000)
Available Balance for Remaining FY14	**$**	**1,204,668**

The following tables are a summary of the SBRLP over the past ten years.

Table 10: Ten-Year Summary of SBRLP

Assistance Provided	$2,517,500
Number of Loans	34
Range of Loans	$9,500 - $130,000

Table 11: Ten-Year Summary of SBRLP by Category

	Recipients		Funding Amount	
	Number	% of Total	Value	% of Total
Industry				
Biotechnology	3	9%	$155,000	8%
Business Services	3	9%	$45,000	2%
Hospitality and Retail	16	47%	$898,000	49%
Other	2	6%	$160,000	9%
Technology and Info. Tech	10	29%	$572,000	31%
Location				
Damascus	1	3%	$15,000	1%
Gaithersburg	3	9%	$243,000	13%
Germantown	1	3%	$2,500	0%
Olney	1	3%	$15,000	1%
Rockville	15	44%	$855,000	47%
Silver Spring	9	26%	$504,500	28%
Wheaton	4	12%	$195,000	11%

- Almost 50% of the recipients and loans disbursed were provided to businesses in the Hospitality and Retail industry.
- 70% of the recipients and 75% of the loans disbursed were provided to businesses in Rockville or Silver Spring.

D. Biotechnology Investor Incentive Program

The Biotechnology Investor Incentive Program (BIIP) was approved by the County Council in Fiscal Year 2011 to provide additional incentive to investors of biotechnology companies located in the County. The BIIP runs in conjunction with the State of Maryland's Biotechnology Investor Incentive Tax Credit Program. Qualified investors who receive the tax credit from the State for companies in Montgomery County are automatically eligible to receive the County's incentive. The amount of incentive is based on the appropriations made by the Council for each fiscal year; the total value has been $500,000 for FY 2011 – FY 2013.

Table 12: BIIP Recipients and Private Investment FY 2011 through 2013

	FY 2011	FY 2012	FY 2013
Incentive Provided	$500,000	$500,000	$500,000
Transactions	66	61	51
Private Investment Total	$5,902,500	$6,253,987	$7,053,700

Note: The number of transactions is the total number of State qualified investments made in Montgomery County biotechnology companies that year, not the number of unique investors.

E. Green Investor Incentive Program

The Green Investor Incentive Program (GIIP) was approved by the County Council in Fiscal Year 2013. The GIIP provides incentive to any investors who made an investment in a Montgomery County green business during the previous calendar year. To be considered a green business, the business must develop an innovative, green technology and operate under sustainable business practices.

The program only ran for six months during Calendar Year 2013, and no applications were received for this supplement. DED continues to market the program and has received interest for the current calendar year.

F. Cybersecurity Supplement Program

The Cybersecurity Supplement Program (CSP) was approved by the County Council in Fiscal Year 2014. The program will be similar to the Biotechnology Investor Incentive Program in that each year the State of Maryland will provide a list of cybersecurity companies that receive qualified investments. Unlike the BIIP, the County's supplement will be given to the company and not the investor.

Since the CSP is linked to the State's program, the County will wait to appropriate funds for the program for Fiscal Year 2015. The first round of supplements will be provided in early-2015.

G. Small Business Assistance Program

The Small Business Assistance Program (SBAP) was approved by the County Council in Fiscal Year 2013 to provide assistance to small businesses located in either an enterprise zone or an urban renewal area that are adversely impacted by redevelopment projects located on property that is owned by the County or redevelopment projects that are financed in whole or in part by the County. The regulation and program policy are being developed and no funding was available for the SBAP during this reporting period.

IV. Performance and Outcome for EDF Sub-Programs

The EDF Program uses public dollars to generate additional economic benefit in the County. As is such, it is important that DED track and analyze the impact and outcome for each program. These sections detail the outcomes that are relevant to the current program needs and the long-term impact of the program on economic benefit.

A. EDF Grant and Loan Program

The EDF Grant and Loan Program (EDFGLP) provides assistance to businesses through conditional grants. In order to receive the conditional grant, each business enters into an EDF Agreement (EDFA) with the County. The EDFA details the goals the business must achieve in order for the conditional grant to become a permanent grant. Most EDFAs contain goals that focus on capital investment, job growth, and remaining in the County during the terms of the EDFA. A company that fails to achieve the required goals must pay back a portion or the entire conditional grant, depending on the EDFA. For example, a company the relocates out of the County will be required to pay back the entire conditional grant. Cases are considered satisfied if a business meets or exceeds the EDFA goals or pays back the amount required by the EDFA. Cases are considered not satisfied if the business does not meet the EDFA goals and fails to pay back the required amount. These cases are forwarded to the Office of the County Attorney (OCA) for collection.

DED oversees the monitoring of each EDFA on an annual basis. Businesses are required by the EDFA to provide certain documents to verify achievement of their goals. For example, many businesses provide their Maryland Unemployment Insurance Contribution Report to provide details about employment and salary figures. DED collects these documents and verifies that the business is on track to meet the required goals of the EDFA.

Current EDFAs now include additional reporting requirements, as required by Bill 14-12. This data will be incorporated in future reports as the data is collected for current and new cases.

Performance Outcome

The following tables provide details about the key performance, monitoring, and outcome data collected by DED through Report Year 2014 for the EDFGLP.

Table 13: EDFGLP Ten-year Outcome

Outcome Category	Number of Recipients (% of Total)	Funding Amount (% of Total)
Completed Cases		
Satisfied EDFA Terms		
Performance Criteria Fully Met	13 (40.6%)	$920,000 (21.7%)
Performance Criteria Partially Met, Made Repayment	9 (28.1%)	$540,000 (12.7%)
Performance Criteria Not Met, Made Repayment	1 (3.1%)	$230,000 (5.4%)
Did Not Satisfy EDFA Terms		
Performance Criteria Not Met, Sent to OCA Collection	9 (28.1%)	$2,550,000 (60.1%)
Total Completed Cases	**32**	**$4,240,000**
Active Cases		
Under Monitoring	28	$21,627,150

Note: Percent of total was only applied to completed cases.

- 71.8% of the completed cases satisfied the EDFA terms in the past ten years, either meeting the goals or paying back the required amount; these cases represent almost 40% of the funding amount for completed cases.
- One case, Bethesda Culture Alliance, represents 73.5% of the amount sent to OCA for collection.

Table 14: EDFGLP Ten-year Outcome by Selected Category

	Recipients	EDFA Performance Criteria			
		Fully Met	Partially Met, Repaid	Not Met, Repaid	Sent to Collection
Purpose					
Attraction	16	6	4	1	5
Retention	16	7	5	-	4
Range					
$0 - $50,000	16	7	5	-	4
$50,001 - $100,000	12	4	4	1	3
$100,001 - $500,000	3	2	-	-	1
More than $500,000	1	-	-	-	1
Industry					
Association and Non-Profit	1	-	-	-	1
Biotechnology	10	2	3	1	4
Business Services	3	2	1	-	-
Education and Healthcare	1	1	-	-	-
Hospitality and Retail	3	1	1	-	1
Other	3	3	-	-	-
Technology and Info. Tech	11	4	4	-	3

- Both attraction and retention projects had a similar success and failure rate.
- Biotechnology and Technology and Info. Tech were the industries with the most cases sent for collection; however, these industries represent the largest share of recipients at 69% of the completed cases.

Long-Term Retention

One of the County's goals for the EDFGLP is to require that businesses remain in the County during the term of the EDFA. It is hoped that businesses will remain in the County long after the EDFA expires, providing continued economic benefit long after the County's conditional grant. The following table lists whether EDFGLP recipients are still in the County or not by selected category, which includes current open cases as well.

Table 15: EDFGLP Long-Term Retention by Selected Category

	Number of Recipients still in Mont. County during 2013		% of Recipients still in the County
	Yes	No	
EDFA Terms			
Satisfied	22	1	95.7%
Not Satisfied	1	8	11.1%
Under Monitoring	30	-	100.0%
Purpose of Conditional Grant			
Attraction	23	5	82.1%
Retention	30	4	88.2%
Range of Conditional Grant			
$0 - $50,000	19	4	82.6%
$50,001 - $100,000	16	2	88.9%
$100,001 - $500,000	11	2	84.6%
More than $500,000	7	1	87.5%
Industry			
Association and Non-Profit	-	1	0.0%
Biotechnology	16	5	76.2%
Business Services	6	-	100.0%
Education and Healthcare	2	-	100.0%
Hospitality and Retail	6	-	100.0%
Other	7	-	100.0%
Revitalization	3	-	100.0%
Technology and Info. Tech	13	3	81.3%

- 85.5% of EDFGLP recipients are still operating in the County.
- 4 additional companies left the County or went out of business since the 2013 EDF Annual Report; those companies include Clean Currents, Neogenix Oncology, Noble Life Sciences, and RNL Biostar.

Job Performance

Most EDFGLP recipients are required to retain and create a certain number of jobs over the term of the EDFA. The initial job number is captured when the business submits the required documentation for the conditional grant disbursement. The job growth number is either captured at a specified time during the EDFA or at the end of the EDFA. For all cases, the final count is the count recorded at the close of the case. The following table shows the outcome of job creation by industry for completed cases in the past ten years.

Table 16: Completed EDFGLP Cases Job Growth

Industry	Recipients	Projected Jobs	Actual Jobs*	Actual as % of Projected
Biotechnology	10	412	384	93.2%
Business Services	3	255	112	43.9%
Education and Healthcare	1	431	441	102.3%
Hospitality and Retail	3	566	446	78.8%
Other	3	219	272	124.2%
Technology and Info. Tech	11	979	1063	108.6%

*As measured at the close of the EDFA

- Combined, all industries achieved 95% of the projected 2,862 jobs required by the EDFAs.
- The Technology and Info. Tech industry represented 34.2% of the expected job growth and 39.1% of the actual job growth, the largest of any industry.

Projected Fiscal Impact vs. Actual Fiscal Impact

One of OLO's recommendations is to enhance the data collection and reporting procedures for economic development incentives by comparing pre-award projected impact with the post-award actual impact. As a part of the EDFA performance monitoring section, DED will include requirements to collect data needed to conduct post award analysis. This data will be collected for the cases that will be disbursed going forward starting FY15 and will be reported in subsequent annual reports when such data is available.

B. Performance and Outcome TGP

TGP awards are typically structured as grants that convert to loans once the company reaches specified annual revenue goal or obtains specified equity financing goal within five years of the term. The conditional grant would be forgiven if the recipient companies are unsuccessful in reaching the revenue/equity financing goals but remain in the County or the company completely dissolves. The following table provides the outcome for TGP cases over the past ten years.

Table 17: Ten-Year Outcome Summary for TGP

Outcome Category	Recipients (% of Total)	Funding Amount (% of Total)
Completed Cases		
Grant Forgiven: TGPA revenue or investment goal not met and grant was forgiven as required by agreement	23 (57.5%)	$1,160,000 (53.0%)
Grant Repaid: TGPA revenue or investment goal met, and recipient repaid as required by agreement	15 (37.5%)	$870,000 (39.7%)
Grant Recalled, Collection: TGPA revenue or investment goal met and recipient failed to repay; sent to OCA for collection	2 (5.0%)	$160,000 (7.3%)
Total Completed Cases	**0**	**$0**
Active Cases		
Under Monitoring	17	$875,000

- More than half of the businesses failed to achieve the goals but remained in business and in the County; this represented 53% of the funding amount.

C. Performance and Outcome SBRLP

Performance of the SBRLP is dependent on the required monthly payments made by the loan recipients. Most of the cases require periodic follow-up and management to ensure that businesses continue to make the required payments. The following tables show the outcome for the SBRLP cases over the past ten years.

Table 18: Loan Outcome for SBRLP last Ten Years

	# of Cases	% of Total	Paid Back Amount	Written-Off Amount
Loan Outcome				
Still Open	8	21%	$201,595	-
Fully Paid-Off	12	33%	$785,038	-
Partial Repayment - Written Off	11	36%	$169,974	$440,380
Full Write-off	3	10%		$99,500

Note: Paid back amount includes principal, interest, and loan fees. Written-off amount is only the unpaid principal.

- The County collected 63.9% of the expected payments for the closed cases.

Table 19: Ten-Year Loan Outcome for SBRLP by Select Categories

Loan Outcome	Paid Back		Principal Write-off	
	Value	% of Total	Value	% of Total
Industry				
Biotechnology	$141,191	12%	-	-
Business Services	$23,814	2%	$25,637	5%
Hospitality and Retail	$378,378	33%	$444,743	82%
Other	$163,535	14%	-	-
Technology and Info. Tech	$449,688	39%	$69,500	13%
Location				
Damascus	$11,493	1%	$5,599	1%
Gaithersburg	$228,544	20%	$34,548	6%
Germantown		-		-
Olney	$1,115	0%	$14,463	3%
Rockville	$463,873	40%	$250,973	46%
Silver Spring	$349,493	30%	$138,365	26%
Wheaton	$102,090	9%	$95,931	18%

- The Hospitality and Retail industry represents 82% of the total write-off value over the past ten years. This is primarily due to the difficulties restaurants and retail shops face, including high initial fixed costs and fluctuating revenues due to competition and challenging economic times.

Long-Term Retention

The County is interested in the long-term retention of the SBRLP recipients. For the past ten years, 65% of the SBRLP recipients still remain in the County. Only one business left the County due to higher cost of business operations within the County.

General Observation about SBRLP

The national economic recession impacted the regional and local economies in many sectors. Small businesses continue to face challenges to grow and prosper under these conditions. Hospitality and Retail Industry suffered the most as the direct consumer spending reduced significantly during the difficult economic times.

V. Tax Credit Programs

The County uses tax credits to incentivize the attraction and retention of businesses, in addition to the EDF programs. Currently, Montgomery County offers the following tax incentive programs for companies seeking to locate, maintain, or expand their business in the County. These programs are entirely administered and managed by DOF.

New Jobs Tax Credit

Qualifying businesses receive a Montgomery County tax credit against real and personal property taxes for a period of six years if they meet the following qualification: 1) re-locate or expand into at least 5,000 square feet of newly constructed and previously unoccupied premises; 2) employ at least 25 individuals in new, permanent full-time positions within a 24-month period in the new or expanded premises. In addition, qualifying businesses will also receive a State of Maryland tax credit, which is applied against individual or corporate income tax, insurance premiums tax, or financial institution franchise tax.

Enhanced New Jobs Tax Credit

An enhanced real and personal property tax credit is available for large businesses generating or creating major economic impacts in the County. This twelve-year credit is available to businesses that: 1) increase their space by at least 250,000 square feet; 2) create 1,250 new permanent, full-time positions or create 500 new, permanent full-time positions in addition to maintaining at least 2,500 existing permanent full-time positions, and 3) pay all these employees at least 150 percent of the federal minimum wage.

Enterprise Zone Tax Credit

The Enterprise Zone Tax Credit is available to businesses that are located in designated areas of Wheaton, Long Branch, Glenmont and Old Towne Gaithersburg. It is designed to spur economic growth, both jobs and construction, in these four Enterprise Zones.

Arts & Entertainment District Tax Credit

This 10-year credit reduces the increase in the County property tax when the assessment increases after construction or renovation of a building. The credit is available for space in manufacturing, commercial, or industrial buildings constructed or renovated for use by a qualifying resident artist or an arts and entertainment enterprise.

The table below shows the total tax credit amounts that businesses received in Levy Year 2013 (July 1, 2013 – June 30, 2014) under different programs.

Table 20: Levy Year 2013 Tax Credit Values

Tax Credit Program	Levy Year 2013
New Jobs Tax Credit	$100,878
Enhanced New Jobs Tax Credit	$1,278,605
Enterprise Zone Tax Credit	$1,421,283
Arts & Entertainment District Tax Credit	$1,340

Final Report

Bethesda Cultural Alliance

OIG Report Number 14-005

March 19, 2014

Montgomery County, Maryland
Office of the Inspector General

Office of the Inspector General

Bethesda Cultural Alliance

March 19, 2014

The Office of the Inspector General (OIG) issued a report of audit survey dated June 25, 2013 on selected operations of the Department of Economic Development (DED) in making Economic Development Fund (EDF) grants and loans. While working on that report, the OIG received a complaint regarding a County EDF grant of approximately $1.8 million that had been made to the Bethesda Cultural Alliance (BCA) in 2006 for the purpose of renovating the Bethesda Theatre. Theatre productions ceased temporarily after the theatre had been operating for only six months, and they ceased permanently approximately two years later. The theatre never became viable while BCA owned it. In early 2010, BCA closed the theatre and defaulted on its mortgage, resulting in a loss to the County.

Objectives, Scope, and Methodology

The objective of this inquiry was to determine whether the information provided to the County regarding the requested theatre renovation funding was complete and accurate.

We conducted our inquiry from May 2013 through February 2014 in accordance with *Quality Standards For Inspection and Evaluation*, issued by the Council of the Inspectors General on Integrity and Efficiency (January 2012). Our inquiry procedures included reviewing County Council records, documentation supporting County and State grants, business entity and real property records of the State Department of Assessment and Taxation (SDAT), Planning Board decisions, BCA records, State and County laws and regulations, and land records, as well as interviewing and corresponding with County and State government staff.

Background

The Bethesda Theatre is an Art Deco building with a distinctive tower and marquee. It was built in 1938 as a movie theatre, and it is a designated historic resource.

The 1994 Bethesda Sector Plan stated that the Optional Method of development would be allowed above and behind the theatre, if the theatre's interior design were preserved and a performance use were provided. The Montgomery County Planning Department's glossary of planning terms states that the Optional Method is a procedure that encourages land assembly and mixed-use development, and that under the Optional Method, higher densities are allowed in exchange for significant public amenities and facilities to support the additional density.

In 1996, the Bozzuto Group (Bozzuto), a developer, paid $3.5 million for the theatre property. The theatre at that time was operating as a cinema and café.

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In 1997, the Montgomery County Planning Board approved a plan for construction of residential units above and behind the theatre. The development was approved under the Optional Method. The 1997 Planning Board approval stated that "the existing structure, both exterior and interior, and a cinema or performance use of the Bethesda Theatre shall be preserved."[1] Bethesda Theatre LLC was formed in 2000 and became the owner of the theatre property and some adjoining properties.

Following is a summary of the events in the Bethesda Theatre renovation project, with a timeline of major events related to the theatre and the County in Table 1.

Table 1: Bethesda Theatre Timeline

11/24/1997	Planning Board approves project plan for theatre and residences
2003	Tenants move into residences, BCA incorporates, County offers $375,000 for renovating theatre
5/2006	Council approves additional $1,500,000 grant
10/2007	Theatre opens
4/18/2008	Water leak damages theatre, which closes temporarily
2009	Contract between BCA and its theatre operator ends
6/2010	Theatre closes, BCA defaults on $4 million mortgage, BB&T (the mortgage holder) forecloses
7/12/2012	County pays State $717,300
9/25/2012	BCA files Articles of Dissolution

Sources: Council records, SDAT business entity records, County FY2007 budget, news reports, County DED records, Maryland DBED correspondence, Maryland land records.

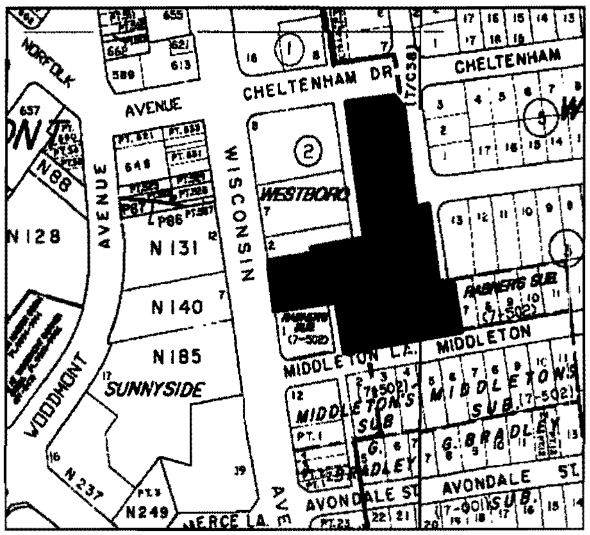
A member of the Planning Department staff told the OIG that for the Bethesda Theatre and residential development project, the Standard Method would have allowed a density (expressed as a floor area ratio[2] (FAR)) of 2.0, but the Optional Method allowed a FAR of

[1] Although "performance use" was not defined in the Planning Board's approval, some information on this point is available in a memo two Department of Park and Planning officials wrote to the Council on May 10, 2006: "The approval also required the facility to be used for the performing arts. The initial idea was for the facility to be used as a movie theatre. The use of the facility as a performing arts center for local drama groups was also considered. Additional improvements were not contemplated or required to accommodate an elaborate performing arts facility capable of presenting Broadway plays."

[2] The floor area ratio is the ratio of the gross floor area of the building to the area of the lot on which it is located.

5.0. We estimate that because this development was approved under the Optional Method, the Planning Board allowed approximately twice the square footage that would have been allowed under the Standard Method. As 208,825 square feet of development were approved, we estimate that Bethesda Theatre LLC was able to develop an additional 100,000 square feet, approximately.[3,4]

Figure 1: Map of Bethesda Theatre LLC Property



Source: SDAT records, with property indicated by OIG

Figure 1 shows a recent map of the Bethesda Theatre LLC property and surrounding area from SDAT records, with the Bethesda Theatre LLC property indicated by the OIG. The Bethesda Theatre LLC property includes the theatre, which fronts on Wisconsin Avenue, plus formerly separate properties which are now also owned by Bethesda Theatre LLC.

In July of 2001, construction began on the planned apartment complex, parking garage, and renovated theatre. Bethesda Theatre LLC built condominiums above and behind the theatre, in a complex called the Whitney.

In 2003, Bozzuto formed BCA as a nonprofit corporation to own and operate the theatre. Bethesda Theatre LLC donated the theatre to BCA, which renovated the theatre, using the Bozzuto construction company as the general contractor. The six members of BCA's initial Board of Directors consisted of four Bozzuto executives, an attorney for a firm that did work for Bozzuto, and the managing director of the other developer working on the condominium development.

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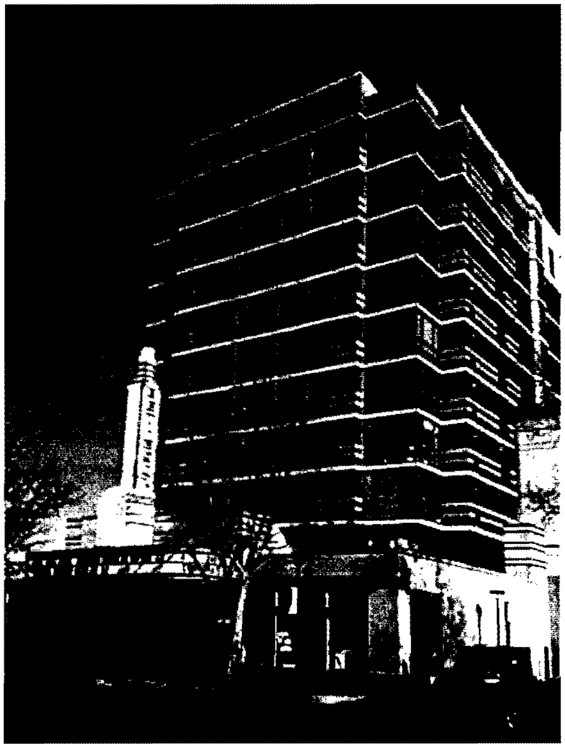
[3] The Planning staff member emailed that "The Bethesda Theater residential has 5.0 FAR in the CBD-2 Zone. The Optional Method density for this project is 5.0 FAR maximum if housing is included at a minimum of 2.0 FAR. This project also included a PD [Planned Development] portion of the site."

[4] According to the Planning staff member, the developer had no choice but to preserve the exterior of the theatre, as it was a designated historic resource, but the developer could have chosen to develop under the Standard Method, develop fewer square feet, and not preserve or renovate the interior of the theatre or provide for the operation of the theatre.

Figure 2: Photograph of the Bethesda Theatre and the Whitney in 2014



Source: OIG staff photograph

Also in 2003, the County Council approved $375,000 for an Economic Development Fund grant to BCA for the renovation of the Bethesda Theatre.

In that same year, the Whitney construction passed the final building inspection required by the building permit, and the first tenants moved in.

Figure 2 is a 2014 photograph with the theatre marquee and tower in the foreground, and the Whitney high rise behind them. The lower Whitney structures cannot be seen in the photo.

In 2005, the Bozzuto Chairman wrote to the County that because of higher than expected costs and the loss of an expected Federal tax credit, he was requesting additional County financial assistance for the theatre renovation.

DED's proposal of an additional $1,500,000 grant for the theatre was considered by the Council in May 2006.The May 11, 2006 Council meeting packet included information from DED that the total project costs for the Bethesda Theatre project were estimated to be $11 million, and it included information from the theatre operator, Nederlander, that the costs were estimated to be $11,525,000. Table 2 shows the planned sources of funding to support these costs.

Table 2: Sources of Theatre Renovation Funds

Equity – BCA (the Theatre)	$3,500,000
First Mortgage (BB&T)	$4,250,000
Contribution – State	$675,000
Contribution – County	$1,875,000
Community Based Fundraising (Backed by Developer Note)	$275,000
Historic Tax Credits – State	$950,000
Total	$11,525,000

Source: Montgomery County DED records.

The State provided a $2 million guaranty for the first mortgage, and a Bozzuto executive informed the Council that the developer was providing a $2 million guaranty, also.

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On May 15, 2006, when the Council was discussing the requested additional EDF grant, Council President Leventhal said, "I am anticipating...where a couple years from now, my constituents will say, 'How could you give them a million and a half without anticipating that this would occur?' whatever it is. That they might walk out on you, leaving the building empty, or the workers might try to organize and they might bust the union."

The Council unanimously approved the County's FY 2007 Operating Budget on May 25, 2006. The budget included an EDF grant of $1,500,000 for the Bethesda Theatre.

In late 2006, the Council endorsed a $675,000 Maryland Economic Development Assistance Authority and Fund (MEDAAF) grant for the theatre renovation. The grant, which the Maryland Department of Business & Economic Development (DBED) made in early 2007, contained County obligations.

Theatre Operations

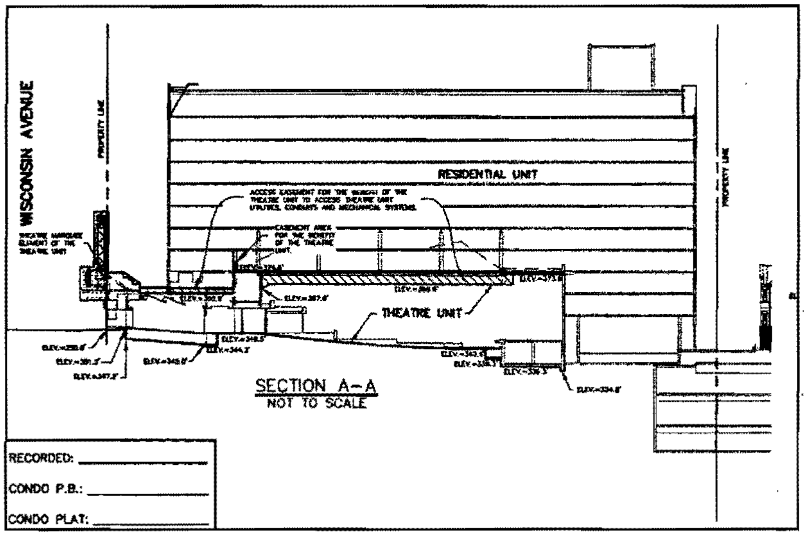
BCA contracted with Nederlander of Bethesda, a subsidiary of Nederlander Worldwide Entertainment, to operate the theatre. An October 9, 2003 Montgomery County press release stated that "Nederlander will transform the historic Bethesda Theatre into a state-of-the-art regional performing arts facility, presenting top tier off-Broadway shows."

The renovated theatre opened in October 2007. The residential condominium units were rented out as apartments; they are still owned by Bethesda Theatre LLC and rented.

Nederlander and Bozzuto projected that the theatre would lose $2,649 in the first year, as reported by Maryland DBED on January 26, 2006.

The first years of theatre operations coincided with the severe recession that lasted from 2007 through 2009. According to the County's Director of Economic Development, the recession made it more difficult for BCA to raise funds.

Figure 3: Cross Section of Whitney and Theatre



Source: Maryland land records

In April 2008, there was significant damage to the theatre from a water leak in the residences above the theatre, and BCA closed the theatre temporarily. At least one show was put on at the theatre in 2009. BCA received insurance reimbursements related to the water leak: $280,000 for repairing water damage and $44,785 for lost income.

Figure 3 contains a cross-section drawing of the theatre below the residential units, from the "as-constructed" condominium plan dated Oct. 17, 2003.

In 2009, BCA ended the management agreement with Nederlander. The theatre's managing director, who was also the President of Bozzuto Homes, stated, according to a newspaper report, that this was because the costs of staging productions were too high. BCA switched to a rental strategy, and the theatre was rented in 2010 for jazz and alternative music shows, a cabaret series, and a talent show for seniors.

Termination

In 2010, BCA closed the theatre and defaulted on the mortgage. Also in 2010, BB&T foreclosed on the theatre. The Maryland DBED wrote to the County requesting reimbursement for its MEDAAF grant, as BCA had defaulted on its mortgage, and thus the County was in default of its agreement with DBED. In 2012, BCA dissolved.

At the time of dissolution, three out of seven BCA Board of Director positions were held by officers of Bozzuto and the other developer, a fourth was held by the Bozzuto attorney, and a fifth was held by the president of a non-profit affordable housing developer sponsored by Bozzuto. When BCA was formed and when it dissolved, the BCA Board was dominated by real estate professionals.

Table 3 shows BCA's net losses, according to tax returns BCA filed with the Internal Revenue Service (IRS).

Table 3: BCA Gains and Losses Reported to IRS

Year ended	Net Gain (Loss)
8/31/2008	($101,938)
8/31/2009	($1,330,540)
8/31/2010	($438,080)
8/31/2011	($8,002,192)

Sources: IRS Form 990 Filings

Bethesda Blues and Jazz, a jazz supper club, bought the theatre from a subsidiary of BB&T for $2,895,000 in 2012. A jazz music performance would appear to qualify as a performance use.

Outcomes

As noted above, Bethesda Theatre LLC was allowed to develop approximately 100,000 square feet more than could have been developed under the Standard Method of development. By having BCA take over the responsibility for theatre renovation and operations, Bethesda Theatre LLC retained the benefit of the Optional Method, while passing most of the liabilities and risks to another entity.

Bethesda Theatre LLC appears to have made a reasonable business decision, as there was only a short-lived legal requirement under the Planning Board approval that the developer maintain and operate the theatre.[5] Planning officials wrote to the Council staff in May of 2006 that "[t]he applicant has substantially met the requirements of the regulatory approvals, but must implement a performing arts function to be fully in compliance." The implementation requirement was met, and Bethesda Theatre LLC was apparently fully in compliance, even though the theatre soon closed.

Publicly available information indicates that the benefits of the theatre project to Bethesda Theatre LLC have exceeded the costs Bethesda Theatre LLC bore in theatre renovation and operations, although private information not available to us may lead to a different conclusion. The Whitney is currently assessed at $77,439,000 by the State Department of Assessments and Taxation. This greatly exceeds the estimated Whitney construction cost ("value") of $31.5 million, according to County Department of Permitting Services records, plus the costs of the theatre renovation and operating losses.

The State of Maryland paid the bank $2 million, as a result of the loan guarantee it had made.

[5] In addition, tax credits were available for arts and entertainment uses in the Bethesda Arts & Entertainment District. We did not research this topic, but these credits would have provided additional benefits and had additional requirements.

The County made EDF grants totaling $1,875,000 to BCA and paid $717,300 to the State (for the State's MEDAAF grant plus interest), for a total of $2,592,300.

The Bethesda Theatre project did not turn out as it was intended, but the County has had a benefit from it, although possibly not an economic one. The historic theatre was preserved and renovated, and there is an entertainment entity operating in it. The housing stock has increased, and there is more taxable square footage. We have not analyzed any effects on economic development, and we have not determined whether a similar result might have been achieved without the County expenditures.

Inquiry Findings and Recommendations

Finding 1: The regulation governing the analyses of EDF applicants' financial viability lacks specificity, and its intent is unclear.

County Regulation 20.73.01.05 requires that

> "An economic benefit analysis and/or pro-forma analysis will be completed for all awards above $100,000, the cost of which will be charged to the Fund. The economic benefit analysis will be used when the business prospect can clearly demonstrate its ability and commitment to perform on its proposed project. The pro-forma analysis will be completed for projects which require due diligence by the County to determine feasibility. This could include analysis of the project's financial feasibility by examining revenues and costs, appropriate market analysis, profit and loss projections, current and projected balance sheets and return on investment."

This Regulation is weak in several ways. Specifically, the terms "economic benefit analysis," "pro-forma analysis," and "business prospect" are neither defined nor described. The regulation states what a pro-forma analysis could contain, but it does not state what it must at a minimum contain. The regulation does not state who should prepare and review the analysis; this could be done by DED, the Department of Finance[6], or an outside expert. The regulation does not require that the economic benefit analysis or pro-forma analysis be provided to the Council.[7]

The regulations do not contain clear guidelines as to how the financial viability of the funding recipient should be considered. The EDF Operating Manual provides no guidelines on this topic.

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[6] County Regulation 20.73.01.04 states that the "Director of Finance may allocate moneys for the Fund," and 20.73.01.05 states that the Director of Finance administers the EDF.

[7] County Code §20-75 requires that the Council be provided "fiscal analyses" containing financial information on projected County tax revenues and County costs, but not on the funding recipient's expected profits or losses.

In the case of BCA, a May 11, 2006 Council staff memo indicates that information on the theatre's viability was prepared by Nederlander and representatives of the developer, and that this information was discussed by a Council committee. There is no indication in the documents we obtained that the Department of Finance, DED, or Council staff performed an objective analysis of this information. There is also no indication that the Committee made any recommendations to the Council specifically about the financial viability of the theatre. Instead, the Council packet focused on the renovation costs and how they would be financed.

Recommendation 1:

The law and/or the DED policy manual section regarding EDF financing should be changed to

- **Define and describe the types of financial analyses required, and the entity(ies) to be analyzed. With large corporations or organizations, the entity might be the corporation or organization *in toto* as well as the department or segment receiving EDF funding.**
- **Describe the difference between an economic benefit analysis, a pro-forma analysis, and "fiscal analyses" required by County Code.[8]**
- **State who should prepare and review the financial analysis. This might be done by DED, the Department of Finance, or an outside expert.**

These analyses should be provided to the Council.

Finding 2: Council and public consideration of the County EDF grant was based on information containing an incorrectly applied multiplier.

The May 11, 2006 Council packet contained a fiscal impact analysis prepared by DED that stated, "Based on the projected direct/indirect net new fiscal impact, the $1,875,000 in county cost is anticipated to be offset in about 5 years (by 2012)." We found that the analysis upon which this statement was based contained an incorrect application of a multiplier.

In DED's "Nederlander Economic Impact Analysis," which DED provided to us, DED stated that it used a multiplier to take into account indirect and induced effects of development. DED's analysis stated that DED used the statistics and the methodology from the State Arts Council's Annual Report, which was prepared by the Maryland DBED using a computer system called IMPLAN.

The founders of the provider of IMPLAN systems have explained, "Industries produce goods and services for final demand and purchase goods and services from other producers. These other producers, in turn, purchase goods and services...These indirect and induced

[8] Ibid.

effects ….can be mathematically derived." A 2004 IMPLAN manual states on p. 167, "A one-dollar change in Industry A final demand results in a 1.182 dollar change in total economy output. This number, 1.182, is the multiplier for Industry A." The multiplier indicates the difference between the initial effect of a change and the total effects of that change.

We reviewed DED's calculations and determined that DED employed the multiplier differently from the way the IMPLAN manual indicates it should be used. DED multiplied the direct effect by the multiplier to determine the *indirect* effect, instead of the *total* effect. DED then added this incorrectly large indirect effect (which was actually the total effect) to the direct effect and, as a result, calculated a total that was incorrectly large. This misapplication of the multiplier resulted in an approximately two-fold overstatement of the indirect benefit to the County economy: instead of being approximately $13 million, the correct calculation yields a figure of $6.5 million. If one were to correct this, the $1,875,000 cost to the County government would have been anticipated to be offset in about seven years, rather than five.

In the BCA case, such a correction may not have led to a different outcome, as there is not a large difference between offsetting the County cost in seven years rather than five. However, a multiplier analysis may be used in the future in other cases in which the misapplication could result in a larger difference.

Recommendation 2:

If a multiplier analysis is used in a future fiscal impact analysis, the calculation should be reviewed for accuracy and appropriateness by someone with relevant expertise.

Finding 3: Information provided to the Council regarding the State MEDAAF grant for the theatre did not disclose (a) that the County would be the MEDAAF grant recipient, (b) that the County could be obligated to repay the State, or (c) other terms of the MEDAAF grant affecting the County.

(a) Information provided to the Council regarding the State MEDAAF grant for the theatre did not disclose that the County would be the MEDAAF grant recipient.

The Council was not informed that the MEDAAF grant was in the form of a conditional grant to Montgomery County itself.

Information about the MEDAAF grant came before the Council at two meetings: at the introduction of the Resolution of approval on October 31, 2006, and at the adoption of the Resolution of approval on November 28, 2006. There was no mention of the County being the grant recipient in either Council packet. Multiple documents related to these meetings referred to the grant recipient as "the Bethesda Theatre" and/or the "Nederlander Project" and did not state that the County would be the grant recipient: (1) the agenda for the October 31, 2006 Council meeting, (2) the agenda for the November 28, 2006 Council meeting, (3) the draft and adopted Council resolutions regarding the MEDAAF grant, (4) an October 20, 2006 memo from the County Executive to the Council, (5) an October 26, 2006 memo from Council staff to the Council, and (6) a May 11, 2006 Council staff memo to the Council.

The MEDAAF information provided to the Council focused on Nederlander. The subject lines of the Council staff memos and the County Executive's memo referred to "the Bethesda Theatre Nederlander Project," and the staff memo stated, "Based out of New York City, the Nederlander Group is one of the largest and most experienced operators of live theater in the world."

MEDAAF grants and loans are frequently made directly to businesses. Background knowledge of this fact may have led the Council and the public to believe that the grant for the Bethesda Theatre renovation was also, given that the information provided to the Council and the public did not state otherwise.

(b) Information provided to the Council regarding the State MEDAAF grant for the theatre did not disclose that the County could be obligated to repay the State.

The MEDAAF grant agreement, signed approximately two months after the Council endorsement of the grant, stated that the County was obligated if BCA defaulted on any indebtedness, but the Council was not informed that would be the case. As stated above, information provided to the Council did not even indicate that the County would be the grant recipient.

As a result of not being told all the relevant facts, the County Council was not informed that the County could be obligated to provide not only the EDF financing, but also a repayment of the State financing, for a total of approximately $2.6 million. In the discussion on May 15, 2006, some Councilmembers had concerns about providing $1,875,000 in EDF financing for the project, but the Council ultimately decided to approve this amount. If the Councilmembers had known that $2.6 million of County money was at stake, they might have had a different view.

On June 24, 2010, the Maryland DBED wrote to the County requesting reimbursement, as BCA was in default on its indebtedness to BB&T. The approved FY13 Operating Budget for the County DED shows an appropriation of $750,000 to reimburse the State. Maryland DBED agreed to accept a 3% interest rate, instead of the default rate of 5%. The County paid Maryland $717,300 on July 12, 2012.

(c) Information provided to the Council regarding the State MEDAAF grant for the theatre did not disclose any requirement of a County contribution.

Section 5-319(d) of the Maryland Economic Development Article requires that

> "For a local economic development opportunity, the local government of the jurisdiction in which the project is located shall provide:
>
> (1) a formal resolution of the governing body of the jurisdiction in which the project is located that endorses the financial assistance to be provided from the Fund; and
>
> (2) as determined by the Department or Authority to evidence the support of the local government for the project:
>
> (i) a guarantee, secured by the full faith and credit of the county or municipal corporation in which the project is located, of all or part of the financial assistance to be provided by the Fund;
>
> (ii) the financing of part of the costs of the project equal to at least 10% of the financial assistance to be provided from the Fund; or
>
> (iii) both."

The October 20, 2006 memo from the County Executive to the Council about the MEDAAF financing stated, "This financing program does not require a local jurisdiction's full faith and credit guarantee, but only requires the local jurisdiction to pass a resolution of support."

This is boilerplate language that the County Executive used in at least nine MEDAAF memos in 2013. It does not address the provision in §5-319(d)(2)(ii) that the County may be required to provide financing. As the County Executive continues to use this language, there is a continuing risk that the Council and the public may not be aware that County financing is required to obtain MEDAAF financing.[9]

Recommendation 3:

Regarding proposed MEDAAF financing, the Council should be

- **provided with the name of the proposed recipient,**
- **informed if the County may be obligated to pay the State, and**
- **informed of grant or loan requirements involving the County.**

[9] Recently, Council staff has more accurately summarized the law in a Nov. 22, 2013 staff memo to the Council, but the County Executive's memo in the same packet used the same boilerplate language the County Executive's previous memos did.

Summary of the Chief Administrative Officer's Response

The response of the Chief Administrative Officer (CAO) to the final draft report is included in its entirety in Appendix A. The CAO indicated that the following actions will be taken in response to our recommendations:

- By amending the Executive Regulation governing the EDF, the recommended clarifications/changes regarding the financial analyses of proposed EDF projects will be made.
- Directors of DED and the Department of Finance will ensure that all future EDF transactions involving "Economic Impact Analysis" using multipliers will be reviewed by outside experts for applicability and accuracy.
- DED will work with the State Attorney General's Office to modify the template MEDAAF Resolution document, to clearly convey to the County Council the recommended information.

The CAO's response did not cause us to alter our findings or recommendations.

Appendix A

OFFICE OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

March 14, 2014

TO: Edward L. Blansitt III, Inspector General

FROM: Timothy L. Firestine, Chief Administrative Officer Timothy L. Firestine

Subject: Final Report, Bethesda Cultural Alliance

I am in receipt of your memo and Report on Bethesda Cultural Alliance, a project funded from the Economic Development Fund in 2006. Thank you for the opportunity to respond to this report. I appreciate the thoroughness of your inquiry and the effort you and your staff put forth in identifying the areas of improvement.

Please find below specific responses to your recommendations.

IG Recommendation 1
The law and/or the DED policy manual section regarding EDF financing should be changed to

- Define and describe the types of financial analysis required, and the entity(ies) to be analyzed. With large corporations or organizations, the entity might be the corporation or organizations *in toto* as well as the department or segment receiving EDF funding.
- Describe the difference between an economic benefit analysis, a pro-forma analysis, and "fiscal impact analyses" required by County Code.
- State who should prepare and review the financial analysis. This might be done by DED, the Department of Finance, or an outside expert.

CAO Response
The Department of Economic Development has begun the process of amending the Executive Regulation 47-15, Economic Development Fund, that provided the framework for the operation of the EDF since April 23, 1996. Through the amended Executive Regulation, the recommended clarifications/changes will be made.

101 Monroe Street • Rockville, Maryland 20850
240-777-2500 • 240-777-2544 TTY • 240-777-2518 FAX
www.montgomerycountymd.gov

IG Recommendation 2
If a multiplier analysis is used in a future fiscal impact analysis, the calculation should be reviewed for accuracy and appropriateness by someone with relevant expertise.

CAO Response
Directors of the Departments of the Finance and Economic Development will ensure that all future EDF transactions involving "Economic Impact Analysis" using multipliers will be reviewed by outside experts for applicability and accuracy.

IG Recommendation 3
Regarding proposed MEDAAF financing, the Council should be

- Provided with the name of the proposed recipient.
- Informed if the County may be obligated to pay the State.
- Informed of grant or loan requirements involving the County.

CAO Response
Department of Economic Development will work with the State Attorney General's Office to modify the template MEDAAF Resolution document, to clearly convey to the County Council the recommended information.

I believe all action items under my response, including the Executive Regulation amendment, will be completed in the next 3-4 months. If you have any questions, please feel free to contact me or Assistant Chief Administrative Officer Fariba Kassiri, who can be reached at 240-777-2512 or Fariba.Kassiri@montgomerycountymd.gov.

TLF:fk

cc: Joseph Beach, Director, Department of Finance
Steve Silverman, Director, Department of Economic Development
Fariba Kassiri, Assistant Chief Administrative Officer
John Fisher, Assistant County Attorney