Discussion Points

1. On October 29, 2012, Hurricane Sandy made landfall in New Jersey. According to the preliminary damage assessment that the New Jersey Governor's Office released on November 28, 2012, the hurricane caused $29.4 billion in repair, response, and restoration expenses plus $7.4 billion in mitigation and prevention costs. The New Jersey Department of Banking and Insurance estimated that in the 113 most impacted municipalities businesses incurred $382 million in commercial property losses and $64 million in business interruption losses, as related in the "Community Development Block Grant Disaster Recovery Action Plan" published by the New Jersey Department of Community Affairs on March 12, 2013.

In the wake of the storm the New Jersey Economic Development Authority (EDA) has developed several **Hurricane Sandy-related relief programs for impacted businesses**. Notably, it created the Main Street Disaster Relief Program within the New Jersey Main Street Business Assistance Program. Through the relief program the authority guarantees up to $500,000 of commercial lines of credit to businesses needing financing to improve their damaged property while awaiting insurance proceeds. The loan guarantee may last for up to a year with a possible one-time extension of up to an additional 12 months. In order to qualify a business must have applied before December 31, 2012, been in operation for at least two years, and presented evidence that an insurance policy to cover damage costs was in place at the time of the storm. The EDA waived all application fees for the temporary program.

In the "Community Development Block Grant Disaster Recovery Action Plan" the Administration laid out its intentions for disbursing $500 million among impacted businesses contingent upon the receipt of $1.8 billion in anticipated federal Community Development Block Grant – Disaster Recovery Funds to be released in accordance with the federal Disaster Relief Appropriations Act of 2013 (Public Law 113-2). The total may still rise pending additional funding rounds. Some $300 million would support EDA grants of up to $50,000 to small businesses and non-profit organizations for storm damage costs they could not recover from other sources. The grants may be used to pay for costs related to rehabilitation, new construction, equipment, inventory, mitigation, refinancing, and working capital, but not to recover financial losses from the storm. The Administration plans to use another $100 million to underwrite an EDA loan program. Creditworthy businesses and non-profit organizations would be able to apply for no-cost loans ranging from $100,000 to up to $5 million to redress the uncompensated costs they incur in improving their storm-damaged properties and to provide financing for the expansion of existing and formation of new businesses in the impacted areas. The EDA would also provide $75 million to neighborhood and community revitalization programs that aim to rebuild commercial areas with public facility improvements and undertake other activities to restore and strengthen local economies. The remaining $25 million would sustain a tourism marketing campaign on behalf of impacted areas.

- **Questions: Please report whether the EDA has extended the original December 31, 2012 filing deadline for assistance under the Main Street Disaster Relief Program. In total, how many businesses applied for assistance under the program**

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and how many applicants did the EDA approve for program participation? Please indicate the total loan amount the EDA has guaranteed under the program and the amount of loan payments the EDA actually has had to make on behalf of program participants defaulting on their loans.

The EDA did not receive any applications for assistance under the Main Street Disaster Relief Program and, as a result, zero applicants were approved for program participation.

- **Please report on the EDA's progress in establishing Hurricane Sandy-related relief programs for businesses out of expected federal Community Development Block Grant – Disaster Recovery Funds. Has the EDA set up: a) the grant program to compensate small businesses and non-profit organizations for their unrecovered storm-related physical damages, b) the no-cost loan program to businesses and non-profit organizations to allow for the alleviation of property damage and the expansion of existing and formation of new businesses, and c) the support mechanism for community revitalization programs? If not yet, by what date does the EDA expect to have the programs up and running? Does the EDA have a reasonably firm sense of additional future funding rounds that may increase the programs' allocations?**

The Community Development Block Grant (CDBG) Disaster Recovery Action Plan, which outlines how the State will utilize the $1.83 billion in federal funding to help homeowners, renters, businesses and communities impacted by superstorm Sandy, was posted for public comment. Following the seven day public comment period, the Plan was submitted to the U.S. Department of Housing and Urban Development (HUD) for review and approval.

As part of the plan, the EDA will be called on to advance the CDBG-funded programs that will support the recovery of storm-impacted businesses and communities. Assuming the proposed plan is approved by HUD, the State will set aside $500 million of the CDBG Disaster Recovery allocation for this initiative; and, as proposed in the Disaster Recovery Action Plan, the EDA will administer certain grants to small businesses, direct loans for impacted small businesses, neighborhood and community revitalization funding and tourism marketing campaign to support impacted areas.

The implementation of these programs is contingent upon approval of the Disaster Recovery Action Plan by HUD, and, at this time, the EDA is preparing to advance the proposed grant and tourism initiatives immediately upon HUD approval, and the loan and neighborhood revitalization programs soon thereafter.

2. The EDA administers the **Business Employment Incentive Program (BEIP)**, created pursuant to N.J.S.A.34:1B-124 et seq. Under the program, the EDA provides grants to businesses that create jobs in New Jersey. BEIP grants may be awarded for up to ten years and equal

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between 10% and 80% of the total amount of State income taxes withheld by the grant receiving business from wages of new employees subject to the grant agreement. To qualify for a grant, an applicant must certify that receipt of the grant is a "material factor" in the business' decision to invest in New Jersey.

As of February 6, 2013, the EDA executed 485 BEIP grant agreements with a cumulative grant amount of $1.55 billion (of which $1.34 billion was disbursed) since the program's inception in 1996. In all, executed BEIP grants covered 101,900 new jobs and capital investments totaling $12.8 billion. According to the Fiscal Year 2012 Annual Report for BEIP, in FY 2012, the EDA executed 41 BEIP agreements representing a State commitment of $71.9 million over the terms of the grants. The authority expects the projects to create 3,892 new jobs over the next two years and the grantees' total capital investment to reach $349.0 million. The comprehensive list of executed BEIP agreements can be found at http://www.njeda.com/web/pdf/BEIP_Activity_Alphabetical.pdf.

The FY 2014 Governor's Budget includes $175.0 million for BEIP grants, the same amount as is appropriated for the program in FY 2013. Responding to EDA Discussion Point #5 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA related that it had $672.0 million in outstanding BEIP grant payment obligations dating as far back as calendar year 2008. The $350.0 million appropriated to the payment of BEIP grants in FY 2012 and FY 2013 would allow it to pay obligations incurred prior to calendar year 2009.

- ***Questions:*** **What is the current backlog of BEIP grant payment obligations? Have all FY 2008, 2009, 2010, 2011, and 2012 obligations been paid? Given that in FY 2012 the BEIP appropriation was $175.0 million and that the EDA executed grant agreements totaling $71.9 million over the terms of the grants, has the EDA scaled back the awarding of BEIP grants to reduce the backlog of BEIP grant payment obligations? What amount of new BEIP grants does the EDA expect to approve in FY 2013? Does the $350 million available for BEIP grants in FY 2013 and FY 2014 suffice to meet the demand for grant payments in those years? How many months does a business have to wait for receipt of a BEIP grant payment after the EDA has approved the first grant payment?**

The EDA, along with the Department of Treasury, has made significant progress in reducing the current backlog of BEIP grant payment obligations. Currently, most of the 2008 and 2009 year, along with some of the 2010 year obligations has been paid. The EDA expects most, if not all, to be paid within the next fiscal cycle.

The EDA has not scaled back accepting applications, but continues to carefully review those that are submitted to ensure applicants qualify for grants under the required "material factor" and economic viability tests. Other previously enacted measures, including the 20% cap on job creation in excess of the new employee commitment, $50,000 per employee withholding cap

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and the requirement that applicants meet the 80% Statewide employment test, all effectuate a reduction in new BEIP grant awards and lessen the impact to the existing backlog.

Since January 2013, the EDA has approved five BEIP grants, and may approve 15 to 20 additional grants through December 2013. The $350 million available for BEIP grants in FY 2013 and 2014 will not pay grants approved in 2013/2014; rather, funds will be used to pay grants approved in prior years.

Based on the backlog of grant obligations, the average wait time to be paid ranges from six months to two years, and timing of payment to grantees is dependent upon completeness and correctness of applicant submissions.

3. The take-up rate of the **Business Retention and Relocation Assistance Grant (BRRAG) tax credit** program has gone from minimal to robust with the enactment of P.L.2011, c.123. Hitherto the aggregate amounts of tax credits granted per year fell substantially below the statutory $20 million program cap. Under the revised program configuration, however, the EDA executed 19 BRRAG agreements in FY 2012 representing a State commitment of $72.9 million over the terms of the agreements, as stated in the *FY 2012 Annual Report on the Business Retention and Relocation Assistance Act*. The EDA expects the projects to result in the retention of 8,075 jobs and $388.9 million in grantee capital investments.

In addition to expanding BRRAG's eligibility criteria and augmenting benefit amounts, P.L.2011, c.123 revised the nature of the program's annual $20 million cap. Previously, the $20 million limitation applied to the dollar value of tax credits newly approved each fiscal year. Under the new program design, however, the $20 million cap is placed on the total dollar value of credits that taxpayers may apply against tax liabilities in a given fiscal year with a requirement that tax credits may only be used in the fiscal years for which they are issued. As a result, the EDA may now approve more than $20 million in tax credits in a given fiscal year, as long as they are spread over a multi-year period.

BRRAG tax credits are available under the corporation business and insurance premiums taxes to businesses that relocate operations within New Jersey and retain jobs or that maintain jobs at a current location and make a qualified capital investment (N.J.S.A.34:1B-112 et seq.). The per-employee tax credit ranges from $1,500 to $9,000 depending on the number of full-time positions retained. Businesses earn a tax credit bonus of 50 percent of the base amount if they relocate at least 2,000 jobs from a location in New Jersey into a designated urban area. They can earn another 50 percent bonus if their capital investment is at least twice the amount of tax credits granted prior to the application of a bonus. In addition to the receipt of the tax credit being a material factor in the business' decision to retain full-time positions in New Jersey, an applicant business must demonstrate that the tax credit will yield a net positive benefit to the State. Tax credit awards are only certified for use upon project completion. Since inception in 2005 through January 28, 2013, the EDA signed BRRAG agreements totaling an estimated

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$116.7 million in tax credits for 74 projects representing an estimated $2.04 billion in capital investments and 29,340 in retained jobs. The EDA lists all BRRAG agreements at http://www.njeda.com/web/pdf/BRRAG_activity.pdf.

- ***Questions:*** **What cumulative Business Retention and Relocation Assistance Grant (BRRAG) tax credit amounts has the EDA awarded to date for FY 2012 and every fiscal year thereafter? What tax credit amount did taxpayers apply against their tax liabilities in FY 2012? Please provide a distribution over future fiscal years of the $72.9 million in BRRAG tax credits the EDA approved in FY 2012. Given that tax credits are awarded for specific fiscal years only and that their finalization is contingent upon project completion, please describe the consequences to approved tax credit amounts if a project runs a year or more behind schedule. Would a tax credit be forfeited? Would the recipient risk not receiving the full initially agreed upon tax credit amount because the remaining unallocated cap space may be insufficient in later fiscal years to accommodate the delayed tax credit?**

The Business Retention and Relocation Assistance Grant (BRRAG) Program tax credits are awarded for specific tax periods of each applicant. The active BRRAG awards approved to date, starting with the 2012 tax period, are as follows:

- $ 3,415,500 – 2012 Tax Period
- $16,594,499 – 2013 Tax Period
- $12,517,899 – 2014 Tax Period
- $15,525,000 – 2015 Tax Period
- $15,538,250 – 2016 Tax Period
- $14,775,750 – 2017 Tax Period
- $12,631,500 – 2018 Tax Period
- $ 8,761,500 – 2019 Tax Period
- $ 8,761,500 – 2020 Tax Period
- $ 1,912,500 – 2021 Tax Period

The tax credit amount that taxpayers applied against their tax liabilities in FY 2012 is as follows: four tax credits issued totaling $1,863,000. The distribution for future years is not known at this time. In terms of issues involving protect completion, if a project is behind schedule a request may be made to receive the tax credit(s) in a later period(s). The EDA may honor that request if there is enough of the statutory $20 million cap available in the subsequent tax period(s). If, in the unlikely instance that there is not enough remaining, the applicant would forfeit the first tax period's tax credit.

- **Is the EDA concerned that the cap on annual tax credit awards might no longer be sufficient? Does the EDA consider the current cap to be a constraint on economic**

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growth, as the material factor requirement and net benefit test ensure that BRRAG tax credits more than pay for themselves from a budgetary perspective?

Due to a recent decrease in BRRAG application activity, the EDA is not presently concerned regarding the $20 million cap on annual tax credit awards, and does not consider the cap to be a constraint on economic growth.

4. The EDA co-administers the **New Jersey Technology Business Tax Certificate Transfer Program** (N.J.S.A.34:1B-7.42a et. al.) with the Division of Taxation in the New Jersey Department of the Treasury. The program enables approved high technology and biotechnology businesses that were not profitable in the last two tax years and that have fewer than 225 employees, at least 75 percent of whom must be based in New Jersey, to sell the businesses' unused net operating losses and research and development tax credits for at least 80 percent of their value to unaffiliated corporate taxpayers. Sellers must reinvest the resultant proceeds in their businesses. The program is subject to an annual $60 million cap, of which $10 million is set aside for companies operating within three designated innovation zones (Newark, greater New Brunswick, and Camden).

New Jersey corporation business taxpayers may apply unused research and development tax credits against their tax liabilities for 15 years and unused net operating losses for 20 years. P.L.2008, c.102 extended the net operating loss carryforward period from seven to 20 years for tax years beginning on or after July 1, 2009. This elongation of the carryforward period may affect the operation of the New Jersey Technology Business Tax Certificate Transfer Program. The New Jersey Institute of Technology stated in its November 2010 report entitled "Program Evaluation: New Jersey Technology Business Tax Certificate Transfer Program" that emerging high technology (excluding biotechnology) companies could be expected to be profitable within five years of initiating a project but that it might take biotechnology companies ten and more years before they could bring new drugs and medical devices to market. P.L.2008, c.102, however, diminished the likelihood that ultimately profitable companies will not be able to take advantage of accumulated net operating losses, as they now have 20 years to apply their losses against their tax liabilities. The New Jersey Institute of Technology based its recommendation that high technology (other than biotechnology) companies be eliminated from the transfer certificate program in part on these companies expecting to become profitable within five years which would give them ample time to use up accumulated net operating losses and research and development tax credits.

- ***Questions:*** **Please comment on the impact of extending the net operating loss carryforward period from seven to 20 years, pursuant to P.L.2008, c.102, on the effectiveness of the New Jersey Technology Business Tax Certificate Transfer Program in creating high-quality jobs. Do today's applicants expect not to be profitable for at least 15 years, given that the carryforward period for unused research and development tax credits is 15 years and that of unused net operating**

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losses 20 years? If so, is it prudent for the State to provide tax incentives to such companies? Are there other benefits to program participants today beyond net present value gains and a one-time cash flow acceleration? Please state the EDA's position on the New Jersey Institute of Technology's recommendation that the program be limited to biotechnology firms.

Pursuant to P.L.2008, c.102, the net operating loss carryforward period under the corporation business was extended from seven to 20 years to mirror carryforward provisions in the federal tax code and in tax codes of many other states, notably of New York, Pennsylvania, Connecticut, and Delaware.

The EDA believes the extension of the net operating loss carryforward period from seven to 20 years greatly expands the benefits of the Technology Business Tax Certificate Transfer (NOL) Program for the technology and biotechnology industry in New Jersey. At this time, the extension has not made any negative impact on the Technology Business Tax Certificate Transfer (NOL) Program. Specifically, the program impacts losses from 2009 forward which are still less than seven years old and therefore, any impact would manifest in 2017 – the eighth year after the carryforward was increased.

In terms of profitability, some of the technology businesses that apply for credits are biotechnology companies that may generate losses for 15 to 20 years while in the research and development phase of their lifecycle. The EDA believes that it is prudent to provide tax incentives to these companies to maintain and expand the biotechnology industry in New Jersey.

The awards from the NOL Program allow emerging technology and biotechnology businesses companies to remain in operation and fund payroll, particularly in today's economy where there is a scarcity of early stage capital. In implementing the program, many awardees have expressed to the EDA that the discretion around the use of funds has been instrumental in allowing them to choose which business initiatives to advance.

Finally, the EDA is not supportive of the recent recommendation to limit the program to biotechnology firms due to the rich environment of hi-tech, clean tech and biotech companies, all of which are important to New Jersey's technology cluster.

- **Please indicate the number of companies that have participated in the New Jersey Technology Business Tax Certificate Transfer Program since its inception. For how many years does the average participant receive transfer certificates? What is the survival rate of program participants five and ten years after their initial transfer certificate approval? What is the total dollar value of transfer certificates that have been awarded since program inception and what percentage of that total has actually been transferred? How many full-time positions have transfer certificates**

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directly caused to be retained or created? On what analytical foundation is the EDA basing its assessment of causation between the transfer certificates and positions retained or created? In awarding transfer certificates does the EDA ascertain that a) the receipt of the certificates is a material factor in the recipients retaining or increasing their full-time positions in New Jersey, and that b) the tax incentive yields a net positive benefit to the State? If applicable, for what reason(s) does the EDA not make material factor and net benefit determinations?

To date, 482 companies have sold tax credits in the Technology Business Tax Certificate Transfer (NOL) Program since its inception; and, the average company has received benefits for approximately 3.4 years.

In the last five years, 178 applicants have been approved to sell credits in the NOL Program. Of those 178 applicants, over 60% have returned to EDA for approval, which demonstrates some longevity. In addition, the percentage of applicants that were identified as biotechnology versus technology businesses has steadily increased from 37.4% of the total applications in 2008 to 55.6% of the total applications in 2012. Although the number of technology applicants has declined over the past five years, the EDA believes that program should continue to support both sectors of the innovation economy.

The total dollar value of transfer certificates that have been awarded since inception is approximately $713 million and, it is estimated that 100% of that amount was transferred.

In terms of full-time positions resulting from transfer certifications, applicants must demonstrate they employ up to 10 employees in order to qualify for the program. In addition, neither material factor nor positive benefit to the State, exist as a statutory or regulatory requirement for eligibility.

5. Since opening on April 2, 2012, the **Revel Casino in Atlantic City** reportedly has failed to turn a profit and needed several bailouts from investors. On February 19, 2013, the Wall Street Journal reported that the casino owners were preparing for a bankruptcy protection filing as soon as mid-March. To significantly pare the company's debt payments Revel would convert about $1.0 billion of its $1.5 billion in outstanding debt into equity. The casino, however, did not expect that the bankruptcy proceedings would affect its day-to-day operations.

Although news reports stated that no taxpayer funds would be used in the debt restructuring, New Jersey has a vested financial interest in the project. Notably, on February 1, 2011, the EDA approved an Economic Redevelopment and Growth Grant (ERG) of up to $261.4 million to Revel Atlantic City, LLC and Revel Entertainment Group, LLC to support the completion of the construction of the then-unfinished casino. The award is not a one-time upfront payment. Under the tax-increment financing program, the final grant amount equals 75 percent of certain State tax collections the casino actually generates over 20 years. As part of the grant

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agreement, the EDA also received a cash distribution interest of 20 percent of the management's initial 10 percent ownership. The authority will share in any profits until it recoups its full investment but will not absorb any of the casino's losses.

According to the *Revel Economic Redevelopment and Growth (ERG) Program EDA Board Memo, February 1, 2011,* the EDA anticipated a $1.6 billion capital investment, the creation of 5,500 full-time jobs, and $650 million of incremental direct State and local tax revenues over the grant's 20-year period. But the casino had only 2,415 full-time employees as of March 1, 2013, according to the Casino Control Commission. A spokesperson for the casino was cited in the August 16, 2012 "Down on its luck: Revel jobs, revenue falling below projections" article in The Star-Ledger admitting that the company had incorrectly described the initial job numbers by including anticipated part-time jobs in the full-time job total. As of March 1, 2013, the casino employed 3,345 persons in all.

The Revel Casino accounts for 57.6 percent of $454.1 million in approved State ERG grants as of February 26, 2013. P.L.2009, c.90 created the program as a tax-increment financing mechanism with a State and a municipal component (N.J.S.A.52:27D-489a et seq.). The law authorizes, but does not require, the awarding of State ERG grants for redevelopment projects that will yield fiscal net benefits to the State and that would not occur absent the financial assistance. State ERG grants are available for eligible redevelopment projects in: a) an area designated for development within the Meadowlands and Pinelands; b) Fort Monmouth; and c) areas designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or as an urban, regional or town designated center under the State Development and Redevelopment Plan. Grant payments may equal up to 75 percent of the annual incremental State tax revenue attributable to a project and may be authorized for up to 20 years. But the combined amount of State and municipal ERG grant payments may not exceed 20 percent of a project's total cost. Disbursements commence after a project's completion. Approved ERG grants are listed at http://www.njeda.com/web/pdf/ERG_Activity.pdf.

- **Questions: Please indicate the amount of State tax revenues collected to date from the Revel Casino and the Economic Redevelopment and Growth Grant (ERG) reimbursements actually made to the casino's owners. According to the projections used in the original award calculation, what amount of State tax revenues and ERG payments should the project have generated to date? What will be the financial impact of the casino's planned bankruptcy filing on the State? If the casino's debt will be converted into equity, will the bankruptcy dilute EDA's cash distribution interest of 20 percent of the management's initial 10 percent ownership, as any net income will be distributed among previous and new equity holders according to a differently weighted formula? Please provide an up-to-date assessment of the project's viability, given the casino's actual performance.**

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The EDA has, to date, not closed on its final agreement with Revel and therefore, at this time, has not reimbursed any tax revenues under the Economic Redevelopment and Growth (ERG) program to the casino (under the ERG project agreement, Revel taxes were projected to be approximately $14 million and, payment under the program was estimated to be approximately $600,000 to date). As the casino's bankruptcy was filed on March 27, 2013, the financial impact is not known at this time.

- **EDA financial assistance is often based on actual capital investments, jobs created, and State tax revenue generated. Nevertheless, applicants may still engage in the strategic misrepresentation of project characteristics to secure the initial approval for program participation. Please comment on EDA's experiences with the accuracy of project estimates submitted by applicants for financial assistance in light of Revel Casino only employing 2,415 full-time staff instead of the 5,500 casino owners claimed they would hire in their ERG application. What are the average error rates when applicants' *ex ante* estimates of jobs to be created, capital investments to be made, and tax revenues to be generated are compared to actual *ex post* capital investments, jobs, and tax revenues? Are the errors biased in one direction? Please expound on the techniques the EDA employs to assess the accuracy of applicant project estimates before, for example, entering the data into its net benefit model. Has the EDA ever brought a lawsuit or contemplated bringing one against a recipient of financial assistance it suspected of having provided a negligent or fraudulent estimate? Does the EDA have the legal authority to bring such a lawsuit?**

In applying for EDA financial assistance under the ERG Program, applicants provide EDA with performance estimates based on market studies, current financial conditions and other factors. These are projected estimates and may change over time due to changes in the economy, natural disasters, or other unforeseen factors that may impact the validity of the estimates provided.

With regard to average error rates for estimates provided for assistance requested under the ERG Program, no data is available as projects have been approved and under construction, but not yet generating revenues.

The EDA utilizes multipliers from the RIMS II data base, published by the US Department of Commerce, along with its own econometric analysis and modeling to assess the accuracy of applicant project estimates; and, to date, the Authority has not initiated legal action against a recipient of financial assistance for knowingly negligent or fraudulent project estimates.

Furthermore, the application submission requirements for the program include a written certification by the chief executive officer, or equivalent officer, stating that the business is not in default with any other program administered by the State of New Jersey and that he/she has

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reviewed the application information and that the representations contained therein are accurate.

6. P.L.2012, c.35 raised the total lifetime cap on the **Urban Transit Hub Tax Credit program** from $1.5 billion to $1.75 billion and extended the deadline for initial tax credit application submissions from January 13, 2013 to July 1, 2014. The $1.75 billion cap has four statutory subcomponents, which the EDA may adjust at its discretion: $1.2 billion set aside for commercial construction, $250 million reserved for residential construction, $200 million earmarked for the Grow New Jersey Assistance Program, and $100 million intended for tax credits for the construction of offshore wind energy facilities. The EDA responded to EDA Discussion Point #1 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis that it did not expect to issue any tax credit for the construction of offshore wind energy facilities prior to that credit's January 2013 filing deadline and that it would reallocate the program's $100 million set aside to the other programs subject to the Urban Transit Hub Tax Credit cap. As of March 5, 2013, the EDA has approved 19 projects for $1.03 billion in Urban Transit Hub Tax Credits (and 16 projects for $428 million in Grow New Jersey Assistance tax credits). But taxpayers will receive their finalized tax credit awards only after project completion. In February 2012, Daily News L.P. became the first certified Urban Transit Hub Tax Credit recipient when it received a $41.65 million credit, which will be divided into ten annual installments. The list of all approved Urban Transit Hub Tax Credit agreements can be found at http:// www.njeda.com /web/pdf/HUB_Activity.pdf.

P.L.2007, c.346 originally established the Urban Transit Hub Tax Credit program (N.J.S.A.34:1B-207 et seq.), under which the State now awards up to $1.75 billion in tax credits to taxpayers who invest at least $50 million in real property situated in urban transit hubs. Subject to certain qualifying criteria, capital investments in business facilities may earn tax credits of up to 100 percent of the investment, residential investments of up to 35 percent of the investment, and mixed use projects either of up to 35 percent for the entire investment or of up to 35 percent for the project's residential component if it represents at least a $17.5 million capital investment and of up to 100 percent for the project's business facility component if it represents at least a $17.5 million capital investment.

Urban transit hubs are the area within a one-half mile radius around a rail or light rail station in Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson, and Trenton, with the Camden urban transit hub covering the area within a one-mile radius around a rail or light rail station. In addition, there is an urban transit hub in the area within a one-mile radius of a rail or light rail station that is subject to a Choice Neighborhoods Transformation Plan. (The only New Jersey Choice Neighborhood is currently in Jersey City at the McGinley Square – Montgomery Corridor.) Acute care medical facilities and closed hospitals located within a one-mile radius of a rail or light rail station also qualify for tax credits.

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- ***Questions:*** **Please provide the current distribution of the $1.75 billion Urban Transit Hub Tax Credit program cap among its subcomponents: commercial construction, residential construction, Grow New Jersey Assistance Program, and the tax credit program for the construction of offshore wind energy facilities. For the program as a whole and each of its subcomponents, please set forth the total amount of tax credits approved to date and the remaining cap space. How did the EDA reallocate the $100 million set aside for offshore wind energy facility construction tax credits? Has the EDA already turned away credit applicants because of the limited supply of unused tax credits? Has the EDA been in negotiations with any acute care medical facility concerning a tax credit award?**

As of March 1, 2013, the current distribution of tax credits under the Urban Transit Hub Tax Credit (UTHTC) Program is as follows: Commercial – $729 million, Residential – $249 million, Grow New Jersey Assistance Program – $353 million and Offshore Wind Energy Facilities – $0. The remaining amount of cap space under the authorized $1.75 billion is approximately $196 million. The $100 million set aside for offshore wind energy facility tax credits was reserved to create the 2012 Urban Transit Hub Tax Credit (UTHTC) Residential Competitive Solicitation, and the EDA has turned away potential residential applicants due to limited credits within the remaining authorized cap. Finally, the EDA is not presently in discussions with any acute care medical facility concerning a tax credit award under the UTHTC Program.

- **Given that the EDA certified the first Urban Transit Hub Tax Credit award in February 2012, please indicate the number of tax credit awards the EDA expects to have finalized by the end of FY 2014. What is the total estimated approved credit amount that the recipients may by then begin to claim on their tax returns?**

The EDA expects to certify approximately $25 million in tax credits for five applicants under the UTHTC Program in FY 2014; which, through the combined use of the credits by recipients and/or purchase by transferees, the EDA expects all $25 million to be claimed on tax returns filed by either tax credit recipients or transferees.

7. On June 1, 2012, the EDA approved a modified $210.8 million **Urban Transit Hub Tax Credit for Prudential Financial Inc**. The firm would be investing $444.0 million in the construction of a new office tower in downtown Newark along with a parking structure for 1,600 vehicles. The company was first approved for a $250.1 million tax credit for its original project. But the credit application needed to be reevaluated once Prudential decided to build its new office tower in a different downtown Newark location. Prudential expected to commence construction in the third quarter of 2012 and to complete it in the fourth quarter of 2014. In furtherance of the original project, the State had enacted section 9 of P.L.2011, c.149 (N.J.S.A.34:1B-250), which authorizes the sale of certain State-owned properties to the New Jersey Performing Arts Center.

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• ***Questions:*** **Please indicate whether the State has already exercised the authority granted in section 9 of P.L.2011, c.149 to sell certain Newark properties to the New Jersey Performing Arts Center in support of the original Prudential project. If not, by which date does the EDA expect the property sales to occur? Are the property sales still necessary given that Prudential is building its new office tower in a different downtown Newark location than it initially intended?**

On November 15, 2012, the EDA Board approved the conveyance of Commercial Development Parcel B (also known as Block 125, Lot 26, City of Newark, County of Essex, State of New Jersey) to the Department of Treasury for sale to the New Jersey Performing Arts Center (NJPAC); however, the property involves a development project unrelated to the formerly-proposed Prudential office tower. The deed granting transfer of ownership from the State of New Jersey to NJPAC has been placed in escrow and, to our knowledge, has not been released from escrow.

8. P.L.2011, c.149 established the **Grow New Jersey Assistance Program**. Subject to an initial $200 million cap, which the EDA may alter at its discretion, the program provides tax credits to businesses for: a) making a minimum $20 million capital investment in a business facility in a qualified area; and b) at that business facility either retaining at least 100 full-time positions with health benefits in New Jersey or creating at least 100 new full-time positions with health benefits in an industry the EDA identifies as desirable to maintain or attract. Tax credits are awarded only if: a) the project yields a positive fiscal net benefit to the State; b) the award of the tax credit is a material factor in the business decision to create or retain eligible full-time positions; c) the project does not involve a point-of-final-purchase retail facility; and d) the business applies for the credit before July 1, 2014. Notwithstanding these general restrictions, the EDA may waive the material factor requirement for businesses that are required to respond to requests for proposal and to fulfill a contract with the federal government and that submit a tax credit application by March 31, 2012.

The credit equals ten annual installments of $5,000 each per full-time position created or retained as long as the number of new full-time jobs for which a business receives a tax credit does not exceed the number of retained full-time jobs for which a business receives a credit, unless the business qualifies by creating at least 100 new full-time positions in an industry identified by the EDA as desirable for the State to attract or maintain. The annual credit amount increases to $8,000 if: a) the business operates in an industry the EDA identifies as desirable to maintain or attract; b) the business is in proximity to a qualified area adjacent to or within walking distance or short-distance-shuttle service of a public transit facility; c) the full-time jobs created carry salaries in excess of New Jersey's average full-time salary <u>or</u> d) the qualified area is negatively affected by the approval of a "qualified business facility" under the Urban Transit Hub Tax Credit Act.

A qualified area is: a) a vacant commercial building having over 400,000 square feet of office, laboratory or industrial space available; b) an area designated for development within the

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Highlands, Meadowlands, and Pinelands; c) Fort Monmouth; and d) areas designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or as an urban, regional or town designated center under the State Development and Redevelopment Plan.

As of March 5, 2013, the EDA has approved 16 projects for $428.2 million in Grow New Jersey Assistance Program tax credits. But taxpayers will receive their finalized tax credit awards only pending project completion. In August 2012, Lockheed Martin Corporation became the first certified tax credit recipient when it earned a $40.0 million credit, which will be divided into ten annual installments. Lockheed was also the first and only business qualifying for the tax credit under the aforementioned temporary provision allowing for the waiving of the material factor requirement, according to the EDA's response to EDA Discussion Point #4 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis. The EDA lists all approved Grow New Jersey Assistance Program tax credits at http://www.njeda.com/web/pdf/Approved_Grow.pdf.

- ***Questions:*** **Please indicate the total amount of tax credits approved to date under the Grow New Jersey Assistance Program, the ceiling currently placed on total credit awards, and the remaining cap space. Does the available cap space suffice to operate the program through the statutory July 1, 2014 application deadline? If not, please indicate the strategy the EDA intends to employ to allocate the unencumbered tax credit amount. Has the EDA already turned away, or does it anticipate turning away, credit applicants because of the waning supply of unused tax credits? Has the EDA been compelled to create a wait list?**

The total amount of approved tax credits under the Grow New Jersey Assistance (Grow NJ) Program is approximately $427 million, which has been increased beyond the $200 million cap for the program pursuant to approval by the EDA Board. The cap for the Grow NJ Program is included within the $1.75 billion total cap for the UTHTC Program, Offshore Wind Energy Facilities, and UTHTC Residential Competitive Solicitation collectively which, as of March 1, 2013, have total approved credits of approximately $1.554 billion, and approximately $196 million in remaining authorized tax credits.

The EDA estimates that the available cap space is not sufficient to operate the program through the statutory July 1, 2014 application deadline. As a result, the unencumbered tax credits will be allocated based on which projects have submitted all of the required application documentation and been deemed complete; and, the applications that have been deemed complete will be presented for EDA Board approval in order based on the earliest deemed complete date.

To date, the EDA has not turned away any applicants and therefore, has not established a wait list for the program.

- **Given that the EDA certified the first Grow New Jersey Assistance Program tax credit award in August 2012, please indicate the number of certified tax credit**

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awards the EDA expects to have finalized by the end of FY 2014. What is the total estimated approved credit amount that the recipients may by then begin to claim on their tax returns?

The first Grow NJ project closed in August 2012 and, at this time, no tax credits have been issued. In order to participate in the program, eligible businesses must make a minimum capital investment of $20 million which shall be certified by an independent CPA. Given the size and complexity of projects, it is difficult to project the number of future tax credits to be issued; however, the EDA expects few, if any, tax credits will be issued by June 30, 2014.

9. On May 30, 2012, the Governor announced that the **State had entered into an agreement with Amazon.com**. The online retailer would begin constructing two warehousing and shipping facilities in New Jersey in 2013. The projects would represent an estimated capital investment of $130 million and would result in the creation of 1,500 permanent full-time jobs and thousands of temporary full-time seasonal and construction jobs. Moreover, since the warehousing and shipping facilities would establish nexus to New Jersey, Amazon reportedly agreed to begin collecting sales and use tax on taxable purchases by New Jersey residents on July 1, 2013. In return, the EDA would at a later date provide unspecified financial incentives to Amazon.com from among its economic development programs. On January 8, 2013, Amazon.com announced that it had selected Robbinsville, Mercer County, as the site of one of its fulfillment centers and that it hoped to take the facility into operation in March 2014. News reports detailed that the company would pay more than $22 million in property taxes and intended to invest more than $200 million in the facility and create 700 full-time jobs.

- ***Questions:*** **Please provide a copy of the May 2012 agreement between Amazon.com and the State of New Jersey concerning the construction and operation by Amazon.com of two warehousing and shipping facilities in New Jersey. If a copy cannot be provided, please state the reason(s) for not providing the document and describe the terms and conditions of the agreement. What role did the EDA play in crafting the agreement? Does the EDA foresee that future economic development agreements may also temporarily sanction, without legislative authorization, retailers not abiding by their obligation under New Jersey law to collect sales tax on taxable purchases by New Jersey residents?**

The EDA was not a party to a formal agreement between Amazon.com and the State of New Jersey concerning the construction and operation of new facilities in the New Jersey; therefore, the EDA is not in a position to discuss any of the parameters regarding any agreement with Amazon.com.

- **Has the EDA approved Amazon.com for any financial incentives in connection with the May 30, 2012 announcement of an agreement between the online retailer and the State of New Jersey? If so, please outline the financial incentives. Do the**

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> **incentive agreements specify any recapture provisions that require the company to maintain a certain number of full-time jobs for a certain period of time if it intends to receive and keep its full financial assistance? In evaluating Amazon.com's applications for financial incentives, has the EDA performed a material factor and net benefit test? If so, please share the EDA's findings. If the EDA has not yet approved Amazon.com for any incentives, please indicate whether the company has applied for any incentives and by what date the EDA intends to make a decision on the application. Has the construction of Amazon.com's two New Jersey warehousing and shipping facilities begun?**

The company has not applied for any financial incentives, and thus, the EDA has not approved any financial incentives for Amazon.com. Finally, according to media reports, Amazon.com has commenced construction of its warehousing and shipping facilities.

10. The FY 2014 **Brownfields and Contaminated Site Remediation Program** budget for payments to developers of brownfield sites is unclear. The Governor proposes a direct $18.2 million General Fund appropriation in FY 2014 for that purpose, or $3.25 million less than the direct $21.45 million FY 2013 appropriation. But this number may only reflect a portion of total expected FY 2014 program disbursements. Additional funding may materialize from unexpended account balances carried forward from prior fiscal years and amounts received from the constitutional dedication to environmental programs of four percent of annual corporation business tax collections. Through FY 2011 these alternative funding sources financed the entire program. In FY 2011, for example, the program received $10.2 million from the constitutional dedication and used $1.1 million in carryforward balances in expending $11.3 million on 15 projects. Owing to rising contractual obligations, however, since FY 2012 the program has needed additional direct General Fund appropriations in every fiscal year.

In addressing EDA Discussion Point #7 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA could not estimate required program disbursements in FY 2013, FY 2014, and FY 2015 for two reasons. First, it still had to finalize its envisioned monitoring system composed of site visits to and field reports of approved remediation and redevelopment projects to better gauge current business activities and the program's future budgetary needs. Second, the EDA remained unsure as to the effects of the sundry requirements of P.L.2009, c.60, the "Site Remediation Reform Act," on the finances and timelines of approved remediation and redevelopment projects and hence their financial demands on the Brownfields and Contaminated Site Remediation Program in any given fiscal year. In all, the EDA noted that the State's aggregated program liability under memoranda of agreement with developers approximated $350 million over a 20-year repayment term, depending on the specific revenues to be generated by each project.

P.L.1997, c.278 created the Brownfield Site Reimbursement Fund whose balances finance the Brownfields and Contaminated Site Remediation Program (N.J.S.A.58:10B-30). The program

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reimburses qualified developers for up to 75 percent of the costs they incurred in remediating abandoned or underused, contaminated, commercial and industrial properties. To be eligible, a project must generate incremental State tax revenues in excess of the State reimbursement. Statutes require the deposit into the Brownfield Site Reimbursement Fund of State tax revenue generated by redeveloped sites. In actuality, however, the fund receives its resources from direct General Fund appropriations and, pursuant to budget language, from that portion of the constitutional dedication of four percent of annual corporation business tax collections for environmental purposes that supports the remediation of the discharges of hazardous substances. The budget language also authorizes the Office of Management and Budget to appropriate additional amounts to the fund if necessary to meet payment obligations.

- ***Questions:*** **For each of FY 2012 and FY 2013, please provide the number of projects that received or are anticipated to receive reimbursements under the Brownfields and Contaminated Site Remediation Program as well as the aggregated disbursement amount. What amount of each year's funding originated in direct General Fund appropriations, the constitutional dedication of four percent of annual corporation business tax collections for environmental purposes, and unexpended account balances carried forward from prior fiscal years? What is the total outstanding program liability, as measured in reimbursement amounts that would eventually come due under memoranda of agreement that developers have signed with the State? Has the State concluded any new agreements in FY 2013?**

According to the Division of Taxation in the Department of Treasury, 11 applicants received approximately $7.3 million in 2012 and, 23 applicants received approximately $7.6 million in 2013, under the Brownfields and Contaminated Site Remediation Program. FY 2012 and FY 2013 were funded solely through State appropriations and, no funding was used from the constitutional dedication for environmental purposes. FY 2012 had $864,000 in carryforward from a prior year and FY 2013 had $3.5 million in carryforward. FY 2014 is, again, expected to be funded solely through State appropriations, as well as any balance that may carryforward from FY 2013.

While it is estimated that the total obligations pursuant to executed agreements exceed $100 million, many of the projects approved have not commenced to remediation. At this time, the EDA is working with the Division of Taxation to close out projects that have not advanced and expects that, as a result, the State's liability will be greatly reduced. Finally, no new agreements have been advanced in FY 2013.

- **Has the EDA established its planned monitoring system composed of site visits and field reports to better gauge current business activities on approved remediation and redevelopment project sites and the program's future budgetary demands? If not, please comment on the impediments to the monitoring system's full implementation.**

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The EDA has commenced a planned monitoring system composed of site visits and field reports to better gauge current business activities on approved remediation and redevelopment project sites, which is expected to result in improved accuracy of budget projections. More importantly, as a result of improved monitoring, long-standing, inactive projects will be terminated which will substantially reduce the total amount of obligations under the program,

- **How many brownfield remediation and redevelopment projects does the EDA anticipate will receive reimbursements in FY 2014 and what is the total FY 2014 program budget? What amount of the FY 2014 funding is anticipated to originate in direct General Fund appropriations, the constitutional dedication of four percent of annual corporation business tax collections for environmental purposes, and unexpended account balances carried forward from prior fiscal years? Does the State anticipate signing any new reimbursement agreements in FY 2013? What are the program's anticipated funding requirements for FY 2015 and FY 2016?**

The EDA estimates that approximately 25 brownfield remediation and redevelopment projects will receive reimbursements in FY 2014; and, the origination of future year's funding will derive from sales taxes generated by the projects that receive reimbursement and thereby, appropriated through the General Fund. The EDA does not anticipate signing any new reimbursement agreements in FY 2013; and, at this time, additional appropriations will be required to fund FY 2015 and FY 2016.

11. Some $384.0 million in unexpended FY 2012 and FY 2013 Clean Energy Fund balances lapsed into the State General Fund. This prompted the Board of Public Utilities (BPU) to reduce the Clean Energy Program budget for the 18-month period from January 2012 through June 2013 by $188.8 million. The Board distributed $58.6 million of the reduction to the four Clean Energy Fund programs the EDA co-administers with the BPU to develop New Jersey's green economy. In all, their combined funding level shrank from $107.7 million to $49.0 million. The **Edison Innovation Clean Energy Manufacturing Fund (CEMF)** absorbed the largest cut among the four green economy development initiatives, as its allocation plunged by $22.7 million, or 73.1 percent, from $31.1 million to $8.4 million (BPU Board Order dated November 20, 2012 Docket numbers EO07030203 and EO11100631V). The CEMF's FY 2014 allocation is unclear, as the BPU has not yet adopted a Clean Energy Program budget for FY 2014 and beyond, and the Administration recommends diverting another $196.2 million in Clean Energy Fund balances into the State General Fund in FY 2014.

The CEMF provides up to $3.3 million in financial assistance to an eligible company that manufactures renewable energy and energy-efficiency products in New Jersey. Up to $300,000 is available as a grant to assist with site identification and procurement, design, and permits; and up to $3 million as a low-interest loan to support equipment purchases and facility construction and improvements. The CEMF receives its funding from the dedicated, off-budget Clean Energy

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Program, which New Jersey ratepayers finance via the societal benefits charge included in their electric and natural gas bills. Operative since April 2001, the program was authorized as part of the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (N.J.S.A.48:3-49 et seq.). Through the program the BPU seeks to promote increased energy efficiency and the use of renewable energy sources, including wind, geothermal, and sustainable biomass.

- **Questions: Please comment on the impact of the $22.7 million reduction in Edison Innovation Clean Energy Manufacturing Fund (CEMF) resources from $31.1 million to $8.4 million for the 18-month period from January 2012 through June 2013. Did the EDA intend to spend the full $31.1 million in program year 2012? How many awards does the EDA project a) will it make in the 18-month period and b) would it have made absent the funding cut? Have previously awarded payments been deferred, scaled back or rescinded? Has the EDA ceased accepting new applications or making new awards? How long is any a) wait list for program admittance and b) backlog in disbursing approved assistance? Has the EDA tightened eligibility criteria or lowered assistance payments?**

The Edison Innovation Clean Energy Manufacturing Fund (CEMF), following its launch, was not able to attract qualified projects due to the downturn in the New Jersey solar market and the drop in Solar Renewable Energy Certificates (SRECs) combined with foreign competition in the renewable energy industry from China. Despite the EDA's intentions, as the market conditions deteriorated, it became evident that viable projects did not exist to support the full $31 million CEMF budget. Currently, there is a pipeline of six companies that have expressed interest in the CEMF; and, no projects have been deferred, scaled back or rescinded, and the EDA has not ceased accepting applications or making new awards under the CEMF.

- **What CEMF funding level does the EDA anticipate for FY 2014? After the repeated diversions of Clean Energy Fund balances into the State General Fund, does the EDA regard amounts originally budgeted for the CEMF as sufficiently certain to plan program operations and specifications upon them?**

Based on decreased demand for assistance under the CEMF, the Authority will be able to sufficiently plan for program operations and specifications, based on current funding levels.

12. The authors of the 2011 Energy Master Plan noted that the Administration was committed to developing 1,500 Megawatt of Combined Heat and Power (CHP) generation capacity over the next ten years but that there was a need to find new stable **funding sources for financial assistance programs for CHP projects**.

At first, P.L.2009, c.34 required that $60 million of accrued Retail Margin Fund balances from the 0.5¢ per kilowatt-hour retail margin that electric distribution companies charged certain non-residential customers remaining on Basic Generation Service from August 2003 though May

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2011 under N.J.S.A.48:3-51 and 48:3-57 be applied to grants supporting the development of CHP facilities. Accordingly, the Board of Public Utilities (BPU) and the EDA developed the original **CHP grant program** as the vehicle through which the $60 million was supposed to be disbursed. Although the EDA received and reviewed grant applications, no grant award was ever made, as available Retail Margin Fund balances were lapsed into the State General Fund and the retail margin assessment was abolished effective June 1, 2011.

Subsequently, the EDA announced on December 3, 2010 that it had approved six proposed CHP projects to receive over $14.2 million in funding under the **Clean Energy Solutions ARRA Combined Heat and Power Program**, a scaled down variant of the previous CHP grant program. The allocation, however, reflected a one-time investment out of the federal stimulus funding the State received under the American Recovery and Reinvestment Act of 2009. According to EDA Discussion Point #9 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA expected the six projects to be completed by April 30, 2012.

An alternative funding source was EDA's **Clean Energy Solutions Capital Investment Loan/Grant program**. According to EDA Discussion Point #5 in the OLS FY 2011-2012 Department of the Treasury Budget Analysis, the EDA awarded a total of $9.8 million to three proposed CHP projects through that program. A year later, only two of the projects had moved forward with $8.5 million in program subsidies (EDA Discussion Point #9 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis). Nevertheless, the program's seemingly stable funding source dissipated, as it was underwritten by amounts the State collected from auctions of carbon dioxide emission allowances to power plant owners under the Regional Greenhouse Gas Initiative (RGGI) and deposited in the Global Warming Solutions Fund, which was created in accordance with P.L.2007, c.340. However, New Jersey withdrew from RGGI at the end of 2011. Furthermore, in FY 2013, the Administration redirected the remaining $12.5 million in Global Warming Solutions Fund proceeds in EDA accounts into the State General Fund.

Subsequently, the dedicated, off-budget Clean Energy Fund has financed the newly created **Large Scale CHP-Fuel Cells (LSCHP-FC) Program**. According to EDA Discussion Point #9 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA and BPU co-administer the program that was originally intended to disburse $55 million to support ten CHP and two fuel cell projects with an electric generating capacity of more than one megawatt each that serve commercial, institutional or industrial electricity customers. The EDA anticipated additional funding rounds in the future. However, the BPU reduced the program budget by $18 million to $37 million in reaction to the lapsing of $384.0 million in FY 2012 and FY 2013 Clean Energy Fund balances into the State General Fund (BPU Board Order dated November 20, 2012 Docket numbers EO07030203 and EO11100631V).

Moreover, in response to EDA Discussion Point #9, the EDA indicated had recently expanded the eligibility criteria for its **Energy Efficiency Revolving Loan Fund (EE RLF) Program** so as to include stand-alone small-scale CHP and fuel cell projects of up to one megawatt of installed

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generation capacity. The program, which also receives funding from the Clean Energy Fund, provides low-interest loans to eligible projects that can be used to finance up to 80 percent of total eligible project cost, not to exceed $2.5 million. But the BPU cut the 2012 program budget from $17.6 million to $240,000 in reaction to the lapsing of $384.0 million in FY 2012 and FY 2013 Clean Energy Fund balances into the State General Fund. (BPU Board Order dated November 20, 2012 Docket numbers EO07030203 and EO11100631V).

Lastly, the EDA replied to EDA Discussion Point #9 that it was exploring the creation of a new $3 million revolving loan program that would be credited with unexpended American Recovery and Reinvestment Act of 2009 balances. The moneys would support future energy efficiency and renewable energy projects at State-owned facilities and buildings, including CHP projects.

- ***Questions:*** **Please provide an update on the strategy the Administration intends to employ to reach its target of developing 1,500 Megawatt of Combined Heat and Power (CHP) generation capacity over the ten years through the end of 2021. Are the lapses of balances in the Large Scale CHP-Fuel Cells (LSCHP-FC) Program and Energy Efficiency Revolving Loan Fund (EE RLF) Program accounts jeopardizing the State's ability to reach the target? Has the EDA come closer to identifying a stable funding source to provide financial assistance to potential CHP facility developers? If not, which funding streams are under consideration? Now that the Clean Energy Solutions ARRA Combined Heat and Power Program and the Clean Energy Solutions Capital Investment Loan/Grant program seem to have expired, which currently active State programs offer financial assistance to developers of CHP facilities? Does the EDA plan any additional programs?**

The Administration's strategy regarding Combined Heat and Power (CHP) generation capacity, balances in existing energy accounts, and appropriate programs for assistance to developers of CHP facilities, is within the purview of the Board of Public Utilities (BPU); however, the EDA has funding available for potential developers of CHP facilities.

- **Please comment on the impact of the $35.4 million reduction in LSCHP-FC Program and EE RLF Program resources from $72.6 million to $37.2 million for the 18-month period from January 2012 through June 2013. Did the EDA intend to spend the full $72.6 million in program year 2012? How many awards for what amount of CHP and fuel cell generation capacity does the EDA project a) will it make in the 18-month period and b) would it have made absent the funding cut? Have previously awarded payments been deferred, scaled back or rescinded? Has the EDA ceased accepting new applications or making new awards? How long is any a) wait list for program admittance and b) backlog in disbursing approved assistance? Has the EDA tightened eligibility criteria or lowered assistance payments?**

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- **What LSCHP-FC Program and EE RLF Program funding levels does the EDA anticipate for FY 2014? After the repeated diversions of Clean Energy Fund balances into the State General Fund, does the EDA regard amounts originally budgeted for the LSCHP-FC Program and EE RLF Program as sufficiently certain to plan program operations and specifications upon them?**

In large part, the reduction in funding for the Large Scale CHP-Fuel Cells (LSCHP) Program was a result of the lack of demand experienced under the first solicitation round. Due to the minimal interest in the program, the EDA did not expect to allocate the full $72.6 million in 2012; and, at this time, the number of awards and CHP capacity to be funded is dependent on demand and may not be determined. Finally, no previously awarded payments have been deferred, scaled back or rescinded, and EDA has not ceased accepting new applications or making new awards under the program.

13. A former 1,126 acre federal military installation bordering the Monmouth County municipalities of Eatontown, Oceanport, and Tinton Falls, Fort Monmouth closed in September 2011. P.L.2010, c.51 established the **Fort Monmouth Economic Revitalization Authority (FMERA)** under EDA's supervision to implement the "Fort Monmouth Reuse and Redevelopment Plan," crafted by FMERA's predecessor authority, the Fort Monmouth Economic Revitalization Planning Authority. In redeveloping the fort for civilian use FMERA is to promote economic development, conserve natural resources, provide housing, and advance the overall quality of life in the affected communities and the State.

On May 17, 2012, New Jersey signed an agreement with the United States Army setting the terms for transferring the military premises to FMERA. A first conveyance of just over 600 acres was slated to take place by February 1, 2013. The remaining land would be transferred at a date to be determined. According to FMERA's reply to EDA Discussion Point #8 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the United States Army will receive 60 percent and FMERA 40 percent of the proceeds to be realized over 20 years from selling and leasing parcels covered by the first conveyance. Procedures for land sales and leasing spaces are in place and FMERA selected Cushman & Wakefield as the property's primary broker.

FERMA has already signed up the first investors. In September 2012, it approved a $2.7 million purchase agreement with AcuteCare Health Systems, LLC for the fort's former Paterson Army Health Clinic in Oceanport. The company will refurbish the property and use it to provide medical services to the elderly, veterans, and other patients in need. On January 29, 2013, the Administration then announced that CommVault acquired a 55-acre parcel in Tinton Falls. The company anticipates developing a corporate campus on the site that will contain 650,000 square-feet of new office and research space, including its headquarters. In March 2012, the EDA approved a Business Employment Incentive Program (BEIP) grant of up to $7.2 million for creating 250 new jobs and a $1.35 million Business Retention and Relocation Assistance Grant for retaining 300 employees in New Jersey in support of the CommVault project.

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Furthermore, in addressing EDA Discussion Point #8, FMERA conveyed that the Suneagles Golf Course reopened at the end of September 2011 and that the EDA made Fort Monmouth capital investments newly eligible for subsidies under the Economic Redevelopment and Growth Program and a 15 percent bonus award in the calculation of any BEIP grant.

Finally, it is unclear to what extent the Federal Emergency Management Agency's (FEMA) decision to house residents displaced by superstorm Sandy on the grounds of the former fort will affect the redevelopment. News publications reported that the Army Corps of Engineers has been renovating existing structures on the former military installation to meet FEMA's anticipated need for 115 housing units.

- ***Questions:*** **Please provide a big-picture outline of the phases of Fort Monmouth's planned revitalization. By which target date is the authority hoping to finish implementing the "Fort Monmouth Reuse and Redevelopment Plan?"**

The former Fort Monmouth will be transferred to the Fort Monmouth Economic Revitalization Authority (FMERA) in two phases. The two-phased approach allows FMERA to build momentum for the redevelopment effort by offering for sale Phase 1 parcels more quickly. The Army can transfer the Phase 1 properties sooner, as it vacated these properties earlier than the remainder of the Fort.

The essential component of the initial redevelopment effort is the transfer of property from the Army to FMERA, which takes place through the Economic Development Conveyance (EDC) agreement. The Memorandum of Agreement (MOA) signed in June 2012, is the overarching agreement between the Army and FMERA which outlines the key points of the EDC agreement, including the revenue sharing between the Army and FMERA. The agreement also sets forth the two-phased process for the property transfer.

FMERA led an extensive negotiation process with the Army to establish the terms of the MOA. Phase 1 consists of Charles Wood, and three parcels from the Main Post. With the exception of the Golf Course parcel, where the Federal Emergency Management Agency (FEMA) is currently using a portion of the property for superstorm Sandy relief, it is anticipated that the Phase 1 properties will be transferred to FMERA by the end of 2013. Phase 1 parcels include the Golf Course, Howard Commons, Marina, Clinic Parcel, Parcel B, Parcel E, Parcel F, Parcel C and Parcel C1, totaling just over 568 acres.

FMERA is currently negotiating the Phase 2 MOA and EDC agreement with the Army. Phase 2 will include the balance of the Main Post, which will be transferred to FMERA on a schedule that has not yet been finalized, but is anticipated to be before the end of 2016. Phase 2 consists of just over 558 acres.

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Finally, FMERA expects to have the majority of the former military installation conveyed to end-users and on the tax rolls of the three host municipalities in ten years.

- **Please report on the progress of Fort Monmouth's repurposing since March 2012, leaving aside the publicized purchase agreements with CommVault and AcuteCare Health Systems. Has the Fort Monmouth Economic Revitalization Authority (FMERA) taken possession of all Phase 1 properties? What amount has FMERA collected to date from the sale or lease of Phase 1 properties? What is the current timetable for taking control of the remaining premises and what will be the distribution formula between the United States Army and FMERA for sales and lease proceeds to be realized from these parcels? What elements of the redevelopment is FMERA currently prioritizing?**

The Fort Monmouth redevelopment effort has made a significant amount of progress since March 2012. The following is an outline of milestones over the past year:

- In May 2012, the FMERA Board approved a resolution awarding design-build services to Tinton Falls-based Patock Construction Co. to renovate the former Fort Library in Oceanport into FMERA's new offices. The renovation is being funded by a grant from the Office of Economic Adjustment (OEA) within the Department of Defense, as well as a loan from the EDA. At other closed military bases, typically the reuse authority will establish a location within the Post's boundaries to facilitate the marketing and management of the property. When the office opens in the late spring, all business and public meetings will be held at the new location, including board meetings.

- Cushman & Wakefield/Continental Realty was chosen as the Master Broker of the former Fort Monmouth property, following the Board's June approval. Pursuant to the Request for Proposals (RFP), Cushman & Wakefield was selected to provide master broker services to market, sell and lease the property and to increase awareness of the Fort's opportunities, maximize value, and stimulate investment and job creation.

- In October 2012, the FMERA Board approved the sublease, and eventual sale, of the Motor Pool property on the Main Post to Monmouth County. The County will utilize the site as a regional facility for the Highway Division of its Department of Public Works (DPW). In exchange for the property, the County will provide services-in-kind to FMERA, of approximately $500,000.

- In October 2012, the FMERA Board approved the Notices of Interest (NOI) evaluation process, which includes the application of seven weighted criteria to determine what discount, if any, would be applied to the fair market appraisal of properties requested by public entities. In exchange for the property, these entities must provide cash or services-in-kind to FMERA.

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- At its December meeting, the Board approved two NOI parcels, the Teen Center and Swimming Pool (Monmouth County) and the Childhood Development Center (Tinton Falls), under the evaluation process. Tinton Falls and Monmouth County plan to provide services-in-kind, in return for the parcels, of roughly $500,000 for each parcel.

- In December 2012, the FMERA Board conceptually approved the "Fort Monmouth Land Use Regulations and Development and Design Guidelines," drafted by FMERA's planning consultant, Phillips Preiss Grygiel (PPG). FMERA must adopt regulations and guidelines in connection with the implementation and furtherance of the Reuse Plan.

- At its January 2013 meeting, the Board approved the final text of the Land Use Rules, which are currently published for public comment in the New Jersey Register. The public comment period will end on April 30, 2013.

- FMERA currently has five pending Requests for Offers to Purchase (RFOTPs). On January 28, 2013, FMERA received proposals for the Howard Commons Area in the Eatontown section of the former Post. The Authority expects to have a recommendation for award for the FMERA Board of Directors' consideration in June or July. The Authority also publically issued an RFOTP for the Officers Housing in the Oceanport section of the former Post on January 16, 2013. Proposals for the Officers Housing are due on April 1, 2013. On March 26, 2013, the Authority publically issued three RFOTPs: Parcel B located in the Eatontown section of the former Post and Parcels C and C1 located in Tinton Falls. Proposals for Parcels B, C and C1 are due on June 10, 2013.

The Phase 1 EDC Agreement states that all Phase 1 parcels will be transferred to FMERA by February of 2013, but that the timeframe may be extended to a mutually agreed upon date. To date, FMERA has only taken title to Parcel E, which the Authority subsequently sold to CommVault Systems, Inc. in January. With the exception of the Golf Course parcel, where the Federal Emergency Management Agency (FEMA) is currently using a portion of the property for superstorm Sandy relief, FMERA anticipates taking title to the remainder of the Phase 1 parcels by year-end 2013. The land transfers have been delayed due to the Army's environmental clearance process.

Pursuant to the Phase 1 EDC agreement, FMERA and the Army will share the revenue from the sale of Phase 1 parcels. This equates to approximately 60% for the Army and 40% for FMERA over 20 years. The conveyance of the Phase 2 parcels is currently being negotiated with the Army. During current discussions with the Army, it is contemplated that FMERA will provide the Army with structured payments that will be determined based on the estimated value of the property, while taking into account needed infrastructure improvements and demolition requirements, rather than shared proceeds.

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On January 29, 2013 the Authority closed on Parcel E with CommVault, one of the world's fastest growing data storage companies. Parcel E, a 55 acre parcel in Tinton Falls is the first tract of the former Post to be sold, and is a significant milestone in the transformation of the Fort. The Authority received $3,837,580 at the closing for reinvestment in the redevelopment of the Fort property, in accordance with the terms of the Economic Development Conveyance Agreement approved on June 25, 2012.

To date, the FMERA has received $157,034 under the Professional Management and Maintenance Services. FMERA is prioritizing all aspects of the redevelopment effort. The need to replace the economic engine that was Fort Monmouth is very clear to the Authority. FMERA is attempting to balance the need for job creation with residential development, which has become increasingly important in the aftermath of superstorm Sandy. The Authority continues its outreach effort through its public board meetings, presentations to trade organizations, economic development organizations and others. Staff has a good working relationship with the Board of Directors and officials on the local, county and state levels. Stakeholder engagement is vital to ensuring the redevelopment effort is successful.

- **Please comment on the effects of superstorm Sandy on the implementation of the "Fort Monmouth Reuse and Redevelopment Plan." Did the storm damage any structures or land or raised concerns about the suitability of certain sites for their intended reuse? Does the redevelopment plan have to be revised as a result? How does the decision by the FEMA to house New Jersey residents displaced by the storm on the former Fort Monmouth property affect redevelopment plans and timetables?**

In the aftermath of superstorm Sandy, FMERA was actively engaged with the Army, the Federal Emergency Management Agency (FEMA) and the New Jersey Department of Community Affairs to assess how Fort Monmouth's assets could be utilized to assist storm victims. As a result, FEMA retrofitted Building #365 in the Lodging Area to house approximately 45 displaced families, who ultimately moved to the temporary housing in November 2012. In early 2013, FEMA also made available units located in the middle of the Suneagles Golf Course, as well as in Building 360 in the Oceanport section of the former Main Post, to bring the total to 115 housing units for families displaced by the storm.

In a step to provide new permanent housing stock for the region, and in accordance with the Reuse Plan, FMERA issued an RFOTP for the Howard Commons Area in Eatontown in December. To further expedite the creation of new housing opportunities in the wake of superstorm Sandy, FMERA subsequently issued an RFOTP for the Officers Housing in the Oceanport section of the former Post.

The Reuse Plan envisions 275 units of new housing for the Howard Commons Area, and the renovation of 117 units of former Officers Housing. For both properties, FMERA must acquire

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title from the Army. This will be for nominal consideration ($1.00), but the Army will participate via a percentage of the Howard Commons sales proceeds, per the approved EDC agreement, and, for the Officers Housing, through FMERA's stipulated payments for the Phase 2 properties.

The use of facilities on the former Fort Monmouth by FEMA for the temporary housing of storm victims on a whole does not adversely impact the Fort Monmouth Reuse and Redevelopment Plan. This is because the facilities, with the exception of the Megill Housing in the middle of the Suneagles Golf Course, are in Phase 2 of the redevelopment effort. The Phase 2 MOA and EDC agreement with the Army has yet to be finalized. Therefore, the property is likely to be sold to a third party after FEMA's 18-month housing program is completed.

With regard to the Megill Housing in the middle of Suneagles Golf Course, its use by FEMA for temporary housing has delayed FMERA's ability to sell the property. FMERA had expected to issue a RFOTP for the Golf Course and Megill Housing this spring, but will delay that process for 1-year.

Finally, superstorm Sandy caused flooding on the former Post and some down trees, but no significant damage to any buildings targeted for reuse. The Board's Real Estate Committee is considering whether any changes to the Plan will be needed as a result of the superstorm.

14. "Angel investments" are equity placements by high net worth individuals into high-risk start-up ventures. On August 2, 2011, the EDA announced the creation of three new programs that provide financing to emerging technology and life science companies that have attracted angel and venture capital investments. One of the programs is the **Edison Innovation Angel Growth Fund** under which eligible companies can receive up to $250,000 in subordinated convertible loans at a fixed annual interest rate of four to ten percent for a five-year term. Put differently, the EDA's claim to loan repayment will be subordinate to any senior bank debt. In return, the EDA obtains the right to convert the debt into equity in a future financing round and ten-year warrants that allow the EDA to acquire company shares at a determined strike price. To qualify for a loan, a C-corporation must: a) have annual commercial revenues of $500,000; b) employ 75 percent of its employees in New Jersey or commit to growing ten jobs over two years with a minimum salary of $75,000; c) develop or own protected proprietary technology; and d) have attracted twice the loan amount from angel investors within 90 days prior to its loan application.

P.L.2013, c.14, the "New Jersey Angel Investor Tax Credit Act," recently established credits against corporation business and gross income taxes for investing in New Jersey emerging technology businesses. Subject to certain limitations, the tax credits equal ten percent of a taxpayer's qualified investment in an emerging technology company with fewer than 225 employees, of whom at least 75 percent are filling a position in New Jersey. Purchase, production, and research agreements qualify as creditable investments. The permanent

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program is subject to a $25 million annual cap. In addition, tax credit recipients cannot claim tax credits for that part of an investment in a single company that exceeds $500,000.

- **Questions: Please indicate the total endowment of the Edison Innovation Angel Growth Fund and any annual aggregate cap on loan originations. How many loan applications has the EDA received to date? How many loans have been originated to date and to how many companies? What total amount has been loaned out? What percentage of loan payments is either late by 30 days or more? Is the EDA considering eliminating or revamping the program in light of the enactment of P.L.2013, c.14, the "New Jersey Angel Investor Tax Credit Act?"**

Since inception, the EDA has provided a total of $31.2 million in assistance under the Edison Innovation Fund. The total amount allocated for the Edison Innovation Angel Growth Fund, along with two other programs – the Edison Innovation Venture Fund and Edison Innovation Growth Stars Fund – is approximately $13 million. Due to the present economic climate which has reduced availability for required matching funds, to date, the EDA has not received any applications for assistance. The EDA however, believes the recently-enacted Angel Investor Tax Credit will provide the stimulus necessary to attract private angel investors into taking a more active role in supporting emerging technology businesses. As a result, the programs are highly complementary and together, will convey much needed, high risk capital into New Jersey's emerging businesses.

15. In September 2011, the United States Department of the Treasury issued a $33.8 million **State Small Business Credit Initiative** award to the State of New Jersey and released the first $11.1 million installment thereof. The second and third payment tranche will be released once New Jersey will have expended or obligated 80 percent of the previous disbursement. Any amount not transferred to the State by the end of the two-year period from the date of the allocation agreement, or September 8, 2013, may be forfeited. The State has until March 31, 2017 to expend the full $33.8 million allocation and must file annual reports on its fund usage with the United States Department of the Treasury. The Governor's FY 2014 Budget indicates that the Administration does not anticipate the receipt of the second funding installment in FY 2013 or FY 2014 (page C-24).

According to the allocation agreement, the EDA will use the moneys in support of four existing programs: a) $13.5 million for EDA's participation in small businesses' bank loans for investments in fixed assets and permanent working capital; b) $9.8 million for EDA's provision of direct loans to small business for investments in fixed assets and permanent working capital; c) $5.5 million for the EDA to guarantee up to 50 percent of bank loans of eligible small businesses for investments in fixed assets and permanent working capital; and d) $5.0 million for the New Jersey Venture Capital Fund Program under which the EDA would invest in early-stage New Jersey technology businesses with less than $3.0 million in annual revenue.

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In addressing EDA Discussion Point #10 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA indicated that it had approved $9.6 million in project financing utilizing the first $11.1 million tranche received from the federal government. Of that amount, it allocated $5.0 million to the New Jersey Venture Capital Fund Program and selected two venture capital firms to invest that sum in an estimated 15 early-stage technology businesses. The EDA also approved another $4.1 million for loans as well as loan and line of credit guarantees to small businesses under the Main Street Business Assistance Program and the Statewide Loan Pool. The EDA set aside the remaining $500,000 as a long-term, low-interest loan under the Loans to Lenders component of the Fund for Community Economic Development to the Greater Newark Enterprise Corporation, a non-profit organization issuing loans to small businesses in the greater Newark area. In a February 2013 audit report, the Office of Inspector General in the United States Department of the Treasury found that New Jersey complied with all federal program requirements in administering the $2.9 million of State Small Business Credit Initiative funds it had disbursed as of June 30, 2012.

The Small Business Jobs Act of 2010, Public Law 111-240, created the $1.5 billion State Small Business Credit Initiative. Intended to strengthen state programs that support lending to small businesses and manufacturers, the initiative is expected to help spur up to $15 billion in lending to small businesses and manufacturers. Participating states must use the federal funds for programs that leverage private lending to help finance capital investments of creditworthy small businesses and manufacturers that have been denied access to the loans they need to expand and create jobs.

- ***Questions:*** **Please report on EDA's progress in using the $33.8 million the State was awarded under the federal State Small Business Credit Initiative. Please identify the specific EDA programs receiving funding, and for each program delineate the amount allocated, the amount that has already been expended or committed, and any metrics on the expected economic benefits to New Jersey resulting from the investments receiving financial assistance. By what date does the EDA expect to receive the second tranche of its State Small Business Credit Initiative award? Is the EDA concerned that it might forfeit any amounts not received from the federal government by September 8, 2013, or the end of the two-year period from the date of the allocation agreement?**

The Governor's FY 2014 Budget shows the entire State Small Business Credit Initiative (SSBCI) award as received and obligated in the Department of Treasury in FY 2012. To date, approximately $10.4 million in SSBCI funding has been approved to support EDA loan, guarantee, and venture fund programs. EDA programs that have used this allocation as a funding source include: Venture Fund Investment Program ($5 million), Premier Lender Program ($2.25 million), Main Street Business Assistance Program ($2.19 million), and Loans to Lender Program ($1 million). Of the aggregate $10.4 million allocation, $6.44 million has closed to date as follows: Venture Fund Investment Program ($3 million), Premier Lender Program ($1.25

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million), Main Street Business Assistance Program ($1.19 million) and Loans to Lender Program ($1 million). The remaining $4 million of allocation has been committed as a funding source to existing approvals which have not yet closed as follows: Venture Fund Investment Program ($2 million), Main Street Business Assistance Program ($1 million), and Premier Lender Program ($1 million). The expected economic benefit the approximate $10.4 million allocation is anticipated to create 312 full time jobs and 103 construction jobs in New Jersey. The EDA expects to receive the second tranche of funding within 60 days (by May 31, 2013) and, expects it will deploy second tranche funds and apply for the third tranche of funds, in advance of the current September 2013/two year deadline.

16. Replying to EDA Discussion Point #5 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA noted that it launched the first phase of the **Incentives Data Management System portal** in February 2012. After completion of the project's first phase Business Employment Incentive Program (BEIP) grant recipients would be able to securely file and validate required annual compliance documents online. This web-based tool would reduce the need for nearly 400 BEIP recipients to send paper copies to the EDA and increase EDA processing efficiencies by ensuring that all necessary documents have been received and are in order prior to EDA review. Future project phases would expand the portal to all other incentive programs; allow for the automated review of compliance documentation; and facilitate data collection, validation, and reporting.

- ***Questions:*** **Please provide an update on the status of the Incentives Data Management System portal. Has the project been completed? If not, at which development stage is the project currently and by which date does the EDA expect its completion? If the project has been completed, please comment on the EDA's experiences with the new technology. Has staff productivity improved? What problems has the EDA encountered with the new technology, if any, and what amount would have to be expended to correct the problems? What was the original cost estimate for the project? What is the current cost estimate or, if the project is already completed, its actual cost? If applicable, what factors account for any cost overrun?**

The EDA has launched two phases of the Incentives Data Management System (iDMS) for the Business Employment Incentive Program (BEIP): BDMS, in 2011 and most recently iDMS, a web portal based application. The primary annual reporting module for BEIP is complete. EDA continues to work to finish the supplemental reporting module for BEIP and reporting for its other incentive programs within the next 12 months. At this time, favorable feedback has been received from EDA customers, with 275 reports for 2012 being filed by customers and accepted as complete by the system; however, staff productivity has not been impacted as work continues through "pre-iIDMS" filed reports (2010 report cycle). In terms of problems encountered with the new technology, EDA program staff tested the program and worked though the data issues with its IT programmer to resolve issues under the current contract. Finally, the original cost

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estimate for the project was $305,000. To date, the EDA has actually spent $208,345, but expects to spend another $80,000 between now and the project completion date of August 2013. Therefore, the total amount to be spent on this project is $288,845, which is under budget and with no overrun is anticipated.