

**ECONOMIC DEVELOPMENT ACTIVITIES  
ADMINISTERED BY THE HARDEE COUNTY  
INDUSTRIAL DEVELOPMENT AUTHORITY,  
HARDEE COUNTY ECONOMIC  
DEVELOPMENT AUTHORITY, AND  
HARDEE COUNTY BOARD OF COUNTY  
COMMISSIONERS AND OTHER  
ADMINISTRATIVE MATTERS**

Follow-Up on Operational Audit Report  
No. 2013-102



Sherrill F. Norman, CPA  
Auditor General

## Board Members

During the period March 2013 through April 2015, the following individuals served as Board members:

<u>Hardee County Board of County Commissioners</u>		<u>Hardee County Industrial Development Authority</u>
District		
<u>No.</u>		
1	Colon Lambert, Vice Chair from 12-11-2014	Vanessa Hernandez, Chair from 10-15-2013; Vice Chair to 10-14-2013
2	Andrea Sue Birge, Chair to 11-20-2013	James V. See, Jr. to 2-19-2015; <sup>a</sup> Chair to 10-14-2013
3	Frederick M. Knight, Vice Chair to 11-20-2013; Chairman 11-21-2013 to 12-10-2014	Gene Davis from 6-6-2013; Vice Chair from 3-13-2014
4	Grady Johnson to 11-17-2014 Russell Melendy from 11-18-2014	Russell Melendy to 2-11-2014; Vice Chair 10-15-2013 to 2-11-2014 <sup>b</sup>
5	Mike Thompson, Chair from 12-11-2014; Vice Chair 11-21-2013 to 12-10-2014;	Dorothy Conerly Lory M. Durrance Rick Justice to 10-9-2013 <sup>c</sup> Douglas A. Jensen John H. O'Neal Michael Prescott to 4-16-2015 <sup>d</sup> Monica Reas from 11-21-2013 Paul Roberts to 5-9-2013 <sup>e</sup> Donald Samuels Horst Witschonke from 6-6-2013 Diana Youmans

### Hardee County Economic Development Authority

David Royal, Chair	Hardee County Farm Bureau
Andrea Sue Birge, Vice Chair	Commission Appointment At Large
Terry Atchley	Commission Appointment – Seat 8
Donna Doubleday from 7-8-2013 <sup>f</sup> Roger Hood to 7-1-2013	CareerSource Heartland
Kenny Miller	Florida Phosphate Council
Stanley L. Pelham	Commission Appointment At Large
Linda Roberson from 1-2-2014 Perry Knight to 1-1-2014	Commission Appointment – Seat 9
Steven Southwell from 10-2-2014 <sup>g</sup> Casey Dickson to 6-16-2014	Chamber of Commerce
Seat Vacant 3-1-2013 to 4-30-2015	Enterprise Florida

- Notes: <sup>a</sup> Board member's seat was vacant 2-20-2015 to 4-30-2015.  
<sup>b</sup> Vice Chair's seat was vacant 2-12-2014 to 3-12-2013.  
<sup>c</sup> Board member's seat was vacant 10-10-2013 to 11-20-2013.  
<sup>d</sup> Board member's seat was vacant 4-17-2015 to 4-30-2015.  
<sup>e</sup> Board member's seat was vacant 5-10-2013 to 6-5-2013.  
<sup>f</sup> Board member's seat was vacant 7-2-2013 to 7-7-2013.  
<sup>g</sup> Board member's seat was vacant 6-17-2014 to 10-1-2014.

The team leader was Mary Lynn, CPA, and the audit was supervised by Eric Davis, CPA.

Please address inquiries regarding this report to Marilyn Rosetti, CPA, Audit Manager, by e-mail at [marilynrosetti@aud.state.fl.us](mailto:marilynrosetti@aud.state.fl.us) or by telephone at (850) 412-2881.

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# ECONOMIC DEVELOPMENT ACTIVITIES ADMINISTERED BY THE HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY, HARDEE COUNTY ECONOMIC DEVELOPMENT AUTHORITY, AND HARDEE COUNTY BOARD OF COUNTY COMMISSIONERS AND OTHER ADMINISTRATIVE MATTERS

Follow-Up on Operational Audit Report No. 2013-102

## **SUMMARY**

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This report provides the results of our audit to determine the extent to which the Hardee County Industrial Development Authority (IDA), Hardee County Economic Development Authority (EDA), and Hardee County Board of County Commissioners (BCC) had taken, or were in the process of taking, corrective actions to address the 12 findings included in our report No. 2013-102. Our follow-up procedures to determine the IDA's, EDA's, and the BCC's progress in addressing the findings and recommendations contained in report No. 2013-102 disclosed that, as of the completion of our follow-up procedures in August 2015, the entities' actions had adequately corrected 8 findings (Nos. 1, 5, 6, 7, 8, 10, 11, and 12) and partially corrected 2 findings (Nos. 3 and 9); however, the entities had no occasion to correct 2 findings (Nos. 2 and 4).

## **BACKGROUND**

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**Hardee County Industrial Development Authority.** As authorized by State law<sup>1</sup> and BCC resolutions, as amended, the BCC created the IDA, a special district, as a body corporate. The Florida Department of Economic Opportunity (DEO) classified the IDA as a dependent special district and the IDA's governing board consists of 5 to 13 Hardee County residents appointed by the BCC. The IDA is authorized by State law<sup>2</sup> as a public instrumentality for the purposes of industrial development, to finance and refinance projects for the public purposes described in the Florida Industrial Development Financing Act, and to foster economic development in Hardee County.

**Hardee County Economic Development Authority.** In accordance with State law,<sup>3</sup> the Legislature enacted,<sup>4</sup> and subsequently amended,<sup>5</sup> legislation creating the EDA, a special district, as a body corporate, to receive the BCC's portion of the phosphate severance taxes allocated for use in counties designated as rural areas of critical economic concern pursuant to State law.<sup>6</sup> The DEO classified the EDA as an independent special district. The EDA's governing board consists of nine members, as follows: President of the Hardee County Farm Bureau or designee; the Director of the Agency for

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<sup>1</sup> Section 159.45(1), Florida Statutes.

<sup>2</sup> Chapter 159, Parts II and III, Florida Statutes.

<sup>3</sup> Section 211.3103, Florida Statutes.

<sup>4</sup> Chapter 2004-394, Laws of Florida.

<sup>5</sup> Chapters 2006-349 and 2010-271, Laws of Florida.

<sup>6</sup> Section 288.0656, Florida Statutes.

Workforce Innovation, or its successor agency,<sup>7</sup> or designee; Chairman of Enterprise Florida, or its successor agency, or designee; Chairman of the Florida Phosphate Council or designee; President of the Hardee County Chamber of Commerce or designee; and four members appointed by the BCC. The EDA's purpose is to solicit, rank, and fund projects that provide economic development opportunities or infrastructure within the geographic boundaries of Hardee County, and to otherwise maximize the use of Federal, local, and private resources for administrative and other costs as provided by State law.<sup>8</sup> The EDA is authorized to appropriate funds received from the phosphate severance tax for administrative costs, including payroll costs and other expenses, as provided by law, and for economic development and infrastructure projects in Hardee County. The EDA is also authorized to establish procedures for the solicitation and awarding of grants.

**Hardee County Board of County Commissioners.** Pursuant to State law,<sup>9</sup> the BCC may expend public funds to attract and retain business enterprises. The use of public funds for such economic development goals constitutes a public purpose. Additionally, the BCC may spend public funds for economic development activities, including, but not limited to, developing or improving local infrastructure, issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants, leasing or conveying real property, and making grants to private enterprises for the expansion of businesses existing in the community or the attraction of new businesses to the community.

Pursuant to State law,<sup>10</sup> we conducted an operational audit of the economic development activities of the IDA, EDA, and BCC, and other administrative matters for the period October 2010 through June 2012, and selected actions taken prior and subsequent thereto, and issued report No. 2013-102 in February 2013. In accordance with State law,<sup>11</sup> we performed follow-up procedures, as deemed necessary, to determine the progress made by the IDA, EDA, and BCC in addressing the findings and recommendations contained within that report.

## ***FINDINGS AND RECOMMENDATIONS***

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HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
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### **Finding 1: Compliance with Chapter 159, Florida Statutes**

#### **Previously Reported**

The purposes for which a technology grant of \$2,657,813 was awarded by the IDA did not appear to be consistent with the definition of a “project” as defined in the Florida Industrial Development Act,<sup>12</sup> and the

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<sup>7</sup> Pursuant to Chapter 2011-142, Laws of Florida, effective October 1, 2011, the powers, duties, functions, and records of the Agency for Workforce Innovation and certain other State offices were transferred to the Department of Economic Opportunity.

<sup>8</sup> Section 211.3103(6), Florida Statutes.

<sup>9</sup> Section 125.045, Florida Statutes.

<sup>10</sup> Section 11.45(3)(a), Florida Statutes.

<sup>11</sup> Section 11.45(2)(j), Florida Statutes.

<sup>12</sup> Chapter 159, Part II, Florida Statutes.

grantee had not been sufficiently determined, in accordance with State law,<sup>13</sup> to be financially responsible and fully capable of fulfilling its obligations under the grant. Also, the IDA did not include in the grant agreement a timeline for the grantee to relocate to Hardee County to ensure that the project provided economic gains to the County.

We recommended that the IDA only finance projects authorized by State law.<sup>14</sup> Additionally, we recommended that, prior to entering into future funding agreements for projects, the IDA: (1) require documentation from the business to demonstrate that it is financially responsible and fully capable and willing to fulfill its obligations under the financing agreement as required by State law; (2) only consider such an agreement if it will potentially further the economic growth of Hardee County as required by State law;<sup>15</sup> and (3) consider the deficiencies discussed in finding Nos. 2 and 3 when drafting such an agreement.

### **Results of Follow-Up Procedures**

***The IDA's actions corrected this finding.*** In March 2013, the IDA requested an Attorney General opinion addressing whether the IDA had authority to finance economic development projects that were not expressly defined in State law.<sup>16</sup> Attorney General Opinion No. 2013-12, issued June 6, 2013, indicated that the IDA would appear to have authority to enter into contracts to foster economic development of the County aside from, or without regard to, the financing or refinancing of a project defined in State law. During the period March 2013 through April 2015, the IDA did not award any new grants.

## **Finding 2: Grant Agreement Design**

### **Previously Reported**

The grant agreement used by the IDA for the technology grant discussed in finding No. 1 did not contain sufficient project descriptions of deliverables, such as measurable outcomes to be accomplished within established time frames, which would demonstrate grantee performance and provide a basis for funding. Additionally, in the event the company was sold, the grant agreement did not contain sufficient protections or remedies for the IDA to ensure achievement of grant objectives or allow for the recovery of funds advanced to the company.

We recommended that for future grants, the IDA design agreements to provide measurable deliverables with established time frames to ensure that grantee performance under the agreement may be determined. Additionally, grant agreements should provide a reporting mechanism so that funding under the grant is dependent upon the grantee providing deliverables within the established time frames.

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<sup>13</sup> Section 159.29(2), Florida Statutes.

<sup>14</sup> Chapter 159, Parts II and III, Florida Statutes.

<sup>15</sup> Section 159.46, Florida Statutes.

<sup>16</sup> Chapter 159, Parts II and III, Florida Statutes.

## **Results of Follow-Up Procedures**

***The IDA had no occasion to correct this finding.*** As noted in Finding 1, during the period March 2013 through April 2015, the IDA did not award any new grants.

### **Finding 3: Grant Monitoring**

#### **Previously Reported**

The IDA did not demonstrate of record that it adequately monitored the technology grant discussed in finding No. 1 because, contrary to the grant agreement, it failed to establish required detailed reports for the grantee to submit and did not provide written reports and recommendations to the IDA Board.

We recommended that the IDA develop procedures and methodologies to sufficiently demonstrate in its public records that it met its stewardship responsibilities regarding grant monitoring. Such procedures, at a minimum, should include obtaining supporting invoices, preparing required reports of the project's progression, and presenting the results of reviews of the company's financial activity to the IDA Board.

#### **Results of Follow-Up Procedures**

***The IDA's actions partially corrected this finding.*** As discussed in finding No. 1 of our report No. 2013-102, in October 2011, the IDA awarded a technology grant to a company (grantee) to develop a Web-based solution to be marketed to the public and supported by customer service personnel located in Hardee County. In September 2012, the grantee, located in Hillsborough County, sold its interest in the Web-based application to another company (located in Pasco County) and an officer of the grantee at the time of the original grant award was the Chairman, President, Vice President, and Treasurer of the company that purchased the Web-based application. Subsequently, the IDA entered into an assignment and modification agreement (modification agreement) with the company to continue the technology grant.

As of January 2014, the IDA had disbursed the total \$7.25 million contemplated under the original grant and modification agreements. Our follow-up procedures included a review of IDA grant monitoring activities related to the modification agreement and an examination of draw requests totaling \$3.1 million made during the period March 2013 through April 2015 and, as discussed in the following paragraphs, we noted monitoring activity deficiencies. Subsequent to the issuance of our report No. 2013-102 in February 2014, the IDA engaged a CPA firm to perform some technology grant monitoring and the Grand Jury of the Tenth Judicial Circuit issued a presentment on its investigation into activities related to the technology grant. The draft examination report prepared by the CPA firm and the presentment issued by the Grand Jury of the Tenth Judicial Circuit noted significant matters and findings that warranted the attention of the IDA.

***Monitoring Activities.*** During the November 13, 2012, IDA Board meeting, the Board introduced the Executive Director of the Hardee County Chamber of Commerce as the IDA's project manager for the technology grant. IDA staff indicated that the project manager was the direct contact for administering the grant, and was responsible for reviewing draw requests, verifying project progress or deficiencies on a monthly basis, and making monthly reports to the IDA Board. However, IDA records did not evidence that the project manager verified documentation, such as time sheets or other payroll records and vendor

invoices, to support the draw requests or reviewed monthly reports to evaluate project progress or deficiencies.

Although the modification agreement included certain new provisions for the company to follow, the agreement lacked certain essential provisions and IDA records did not always evidence appropriate monitoring. Specifically:

- Section 4.7 of the modification agreement required the company to initially create 25 jobs that varied by class and job title. To monitor these new jobs, IDA staff indicated that they conducted company site visits and the company provided monthly reports to the IDA Board. However, the agreement contained no provisions to limit funding or impose other penalties for failure to meet the job creation requirement. Additionally, company staff, IDA staff, and the project manager indicated that no more than 15 jobs were created as of October 2013, and IDA records did not evidence documented site visits or review of the company's payroll records to confirm the extent, if any, that the company created the 15 jobs. Without provisions to reduce funding or other penalties for not creating the required number of jobs and documented verifications of the jobs created, the agreement's job creation requirement has limited use.
- Section 4.8 of the modification agreement required the company to provide the IDA a monthly draw request that identified funding needs by expense category. Our review of the draw requests totaling approximately \$3.1 million submitted to the IDA during the period March 2013 through January 2014, indicated that the requests were generally only supported by invoices issued by the company and two other entities with the same President as the company. While the draw requests were sometimes accompanied by various expense spreadsheets and credit card Web page printouts, such spreadsheets and printouts were not substantiated by vendor invoices or other supporting documentation, nor was it apparent how such support reconciled to the amounts included on the draw requests.
- Section 4.9 of the modification agreement required the company to provide details of accomplishments at monthly IDA Board meetings and the company provided these updates until January 2014. The company's presentations to the IDA provided the status of various elements of the project, such as product development, employees hired, and revenue projections; however, IDA records did not evidence documentation substantiating the information included in these presentations.

Absent penalty clauses to enforce performance and documented verifications of the agreement provisions, the IDA's risk increases that grant reimbursements for unauthorized expenditures may not be detected.

**Grand Jury Presentment.** In 2014, the Office of the State Attorney, Tenth District (State Attorney) conducted a criminal investigation into activities related to the technology grant. Based on the State Attorney's investigation, the Grand Jury for the Tenth Judicial Circuit initiated an inquiry into the matter and, on January 7, 2015, issued a presentment summarizing its findings. While the Grand Jury did not return an indictment, the presentment included several findings that indicated a lack of IDA monitoring and questionable company expenditures. For example, the Grand Jury presentment noted that:

- In awarding the grant, the IDA accepted certain verbal representations from representatives of the original grant applicant without properly vetting such information. For instance, representatives indicated that there would be at least 10,000 users upon product completion and projected that, by 2014, there would be 400,000 users that would generate \$26.4 million in revenues. However as of December 2014, the majority of the company's revenues were received from the IDA, not individual users.

- From 2011 through 2013, the owner of the company and his wife personally received over \$1.44 million of grant funds for salaries, consulting fees, and other fees.
- From 2011 through 2014, grant funds were used to pay salaries totaling \$4 million to 54 total employees who were not residents of Hardee County; however, 15 employees who were residents of Hardee County only received \$357,000. Additionally, of the 15 Hardee County employees initially hired by the company, 10 were no longer with the company.
- Training and mentoring expenditures totaling \$858,838 over a 14-month period were not appropriately monitored. For example, in October 2012, the IDA paid the company \$183,190 for training and mentoring; however, at that time, no employees had been hired.

The Grand Jury also made recommendations to completely revamp the IDA's process for grant applications, approval, and monitoring, and recommended that future grants awarded by the IDA require that open positions created by the grantee be advertised and priority be given to Hardee County residents. During a special meeting held in March 2015, the IDA Board approved an official response to the Grand Jury presentment findings and recommendations.

**Certified Public Accounting (CPA) Firm Report.** In June 2014, the IDA engaged a CPA firm (firm) to perform an examination review of the technology grant in accordance with *AICPA Professional Standards* for attestation engagements. The engagement letter indicated that the objective of the examination review was the expression of an opinion as to whether draw requests were fairly stated, in all material respects, based on the original grant and modification agreements.

A draft report of the results of the examination review was delivered and discussed before the IDA Board at its December 2014 meeting. Based on the draft report, the firm reviewed seven draw requests totaling \$3.1 million, or 43 percent of the \$7.25 million in total grant awards made under the original grant and modification agreements. The draft report indicated that the schedule of draw requests was fairly stated. However, the report also communicated significant matters noted during the examination that warranted the attention of the IDA. Such matters included \$194,093 (6 percent) in questioned costs for expenditures paid by the grantees and numerous related-party contracts. During the February 2015 IDA Board meeting, there was a discussion about the questioned costs and, during this discussion, the firm indicated that the grantee provided it a financial statement compilation and bank statements showing that the grantee received non-IDA financial contributions totaling more than the questioned costs. The Board voted to accept the non-IDA investment of funds as an offset to the questioned costs noted in the draft report. As of September 24, 2015, the firm had not issued a final report.

**Recommendation: For future grants, the IDA should enhance monitoring procedures to sufficiently demonstrate in the public record that the IDA met its stewardship responsibilities for grant monitoring. Such procedures, at a minimum, should include documenting site visits and, when applicable, reviewing grantee payroll records to confirm the creation of new jobs; obtaining invoices to support draw requests; and maintaining records of other specific monitoring efforts. For any questioned costs identified, the IDA should require the grantee to provide documentation evidencing the allowability of the costs or ensure that grant funds are returned to the IDA.**

**Follow-up to Management's Response:**

*In its response, the IDA expressed concerns about our references to information contained in the Grand Jury presentment and CPA firm draft report and stated that the Grand Jury presentment "evidence" was "immaterial unless the auditors reviewed and substantiated the information." Government Auditing*



Standards provide that consideration of the strength and weakness of each form of evidence depends on the auditor's professional judgment. As the Grand Jury presentment and CPA firm draft report identified deficiencies in the IDA's grant monitoring responsibilities similar to what we noted in our report No. 2013-102 and during our follow-up audit procedures, we consider the information provided by those documents to be both relevant and significant and, therefore, a reference to the information was necessary to promote an understanding of the matters reported.

#### **Finding 4: Acquisition of Building for Technology Center**

##### **Previously Reported**

The IDA entered into an agreement with a utility company for the provision of a dedicated backup power source for an IDA-owned building. However, the IDA did not perform an analysis to determine whether acquisition of the backup power source was a more efficient and cost-effective option than other available and reliable sources of backup power. Further, the IDA did not take steps to ensure that the agreement was in the IDA's best interest.

We recommended that the IDA implement procedures to ensure that an analysis of all alternatives is performed prior to entering into similar agreements. Additionally, we recommended that the IDA ensure its interests are protected within such agreements with clearly defined terms and remedies.

##### **Results of Follow-Up Procedures**

***The IDA had no occasion to correct this finding.*** During the period March 2013 through April 2015, the IDA did not enter into any similar agreements.

#### **Finding 5: IDA Financial Reporting**

##### **Previously Reported**

Prior to December 2011, the IDA had not filed required annual financial reports with the Florida Department of Financial Services or provided for annual financial audits. We recommended that the IDA ensure that it timely complies with applicable financial reporting and audit requirements pursuant to State law.<sup>17</sup>

##### **Results of Follow-Up Procedures**

***The IDA's actions corrected this finding.*** The IDA timely complied with the annual financial reporting and audit requirements for the 2012-13 and 2013-14 fiscal years.

#### **Finding 6: Independent Auditor's Findings**

##### **Previously Reported**

The IDA had not taken full corrective actions in response to financial reporting and internal control findings reported by its independent auditor as material weaknesses and other deficiencies. We recommended

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<sup>17</sup> Sections 218.32 and 218.39(1), Florida Statutes, respectively.

that the IDA continue efforts to address material weaknesses and other internal control deficiencies reported by the independent auditors.

### **Results of Follow-Up Procedures**

***The IDA's actions corrected this finding.*** The management letter prepared by the IDA's independent auditor in connection with the 2012-13 fiscal year audit indicated that all previously reported material weaknesses and other control deficiencies were corrected. Although, in connection with the 2012-13 fiscal year audit, the independent auditor reported two new significant deficiencies related to the lack of formal written policies over information technology and untimely repayment of due to and due from accounts, the IDA's independent auditor for the 2013-14 fiscal year audit reported that these deficiencies had been corrected.

### **Finding 7: IDA Bank Accounts**

#### **Previously Reported**

The IDA had not timely removed its former treasurer from the list of authorized signers on its bank accounts and two bank accounts required only one signature to initiate transactions. Subsequent to our inquiry, the IDA updated the banking agreements to remove the former treasurer's signature authorization and require two authorized signers on the accounts.

We recommended that the IDA implement procedures to ensure that it timely amends bank agreements for personnel changes.

### **Results of Follow-Up Procedures**

***The IDA's actions corrected this finding.*** Our review of banking agreements in effect during the period March 2013 through April 2015 disclosed that the agreements were timely updated for personnel and IDA Board member changes.

### **Finding 8: IDA Staffing**

#### **Previously Reported**

The IDA did not have a written agreement with the Economic Development Council (EDC) regarding a staff arrangement whereby the EDC provided staff to the IDA to perform financial, accounting, and administrative functions. Such an agreement was necessary to establish, at a minimum, staff responsibilities and educational requirements, descriptions of services to be provided, supervisory responsibilities, and an indemnification provision.

We recommended that the IDA develop a written agreement with the EDC that contains, at a minimum, the elements described above.

### **Results of Follow-Up Procedures**

***The IDA's actions corrected this finding.*** As of April 2015, the IDA continued to utilize EDC staff for all administrative functions with no written staffing agreement between the IDA and EDC. The BCC

approved two resolutions<sup>18</sup> revising the IDA Board membership and requiring IDA Board members to also be members of the EDC Board. IDA staff indicated that because the Board members and officers of each organization were now the same, a written agreement between the two entities was unnecessary as the agreement would be signed by the same person, the Board chair.

## **Finding 9: IDA Construction of Speculative Building**

### **Previously Reported**

The IDA did not comply with State law<sup>19</sup> when selecting a construction management entity (CME) to oversee the construction of a speculative (spec) building and other deficiencies were noted with the IDA's administration of the project. Such deficiencies included inadequate review of subcontractor bid awards and charges, failure to establish completion dates and provisions for liquidated damages, lack of timely evidence of a payment and performance bond, failure to take advantage of sales tax savings for direct material purchases, and inadequate support for general condition charges.

We recommended that the IDA implement procedures to competitively select the most qualified firm for construction projects in accordance with State law. In addition, we recommended that the IDA ensure that the subcontractor selection process is properly monitored, and implement procedures requiring construction contracts to contain appropriate penalty clauses for noncompliance and receipt of evidence of adequate payment and performance bonds prior to commencing work. We also recommended that the IDA seek sales tax exemption status and enhance procedures to ensure that general condition items and subcontractor charges are supported by payroll records, invoices, or other appropriate documentation.

### **Results of Follow-Up Procedures**

***The IDA's actions partially corrected this finding.*** During the period March 2013 through April 2015, the EDA awarded grants totaling \$5.6 million to the IDA for construction of a spec building and the purchase and renovation of an existing building (renovation project). Work performed for the spec building was in three phases and the renovation project was in two phases. The guaranteed maximum price (GMP) contracts for the spec building and renovation project were \$4.3 million and \$730,000, respectively. Our evaluation of the IDA's administration of these projects disclosed:

- *Selection of CME.* State law<sup>20</sup> limits the use of continuing contracts to projects that individually have estimated construction costs that do not exceed \$2 million. While both projects were administered pursuant to continuing contracts and subject to the State law competitive selection process, the IDA did not use a competitive selection process to select the CME for either project and continued to use the same CME for all IDA projects. While the IDA could have used a CME firm engaged under a continuing contract for the renovation project, the firm utilized was not selected pursuant to State law.<sup>21</sup> Without use of the required competitive selection process, IDA records did not evidence that the most highly qualified firm was selected for these projects.

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<sup>18</sup> Resolution No. 12-18, dated September 6, 2012, and No. 15-12, dated March 19, 2015.

<sup>19</sup> Section 287.055, Florida Statutes.

<sup>20</sup> Section 255.103(4), Florida Statutes.

<sup>21</sup> Section 287.055(4), Florida Statutes.

- *Subcontractor Bidding Process.* We obtained subcontractor bid tabulation sheets for the two largest phases of the spec building project and each of the two phases of the renovation project. These bid tabulation sheets included 43 work items with costs totaling \$2.4 million. Our review of documentation for 26 selected work items totaling \$2.1 million disclosed that the items were supported by detailed bidding documentation and generally matched amounts included on the final GMP for the project. IDA staff indicated that all subcontractor bids were opened in the IDA offices with IDA staff present; however, IDA records did not evidence who was in attendance for the bid openings. Documented IDA staff attendance and evaluation of this process decreases the risk of compromising the subcontractor selection process.
- *GMP/Substantial Completion Date/Liquidated Damages.* The CME agreements (agreements) required construction phase commencement and substantial completion dates be included in the GMP proposals and provided that, should the CME fail to substantially complete the work within the required time period, the IDA was entitled to assess liquidated damages for each calendar day thereafter until substantial completion was achieved. The liquidated damages amounts were to be established in the GMP proposals submitted by the CME.

The GMP proposals submitted to the IDA for the two largest phases of the spec building and the two phases of the renovation project did not include liquidated damages amounts. Consequently, the agreements provided no financial penalty for untimely completion of the projects and both phases of the renovation project were completed 14 and 68 days after the dates established in the respective GMP proposals. Financial penalties provide the IDA with a means to hold the CME responsible, thereby increasing the CME's incentive to complete the project by a specified date.

- *Payment and Performance Bonds.* The agreements required the CME to provide a payment and performance bond and IDA records evidenced payment and performance bonds in the full amount of the GMP proposals.
- *Direct Material Purchases.* The IDA obtained sales tax exemption status effective February 26, 2013, and our test of 15 project expenditures totaling \$414,735 disclosed that the IDA utilized its sales tax exemption.
- *Support for General Conditions and Subcontractor Charges.* Our review of pay applications totaling \$1.5 million for the largest phase of the spec building project and each of the two phases of the renovation project disclosed that the IDA generally obtained support for all general conditions scheduled costs and subcontractor charges.

**Recommendation: The IDA should implement procedures to competitively select, in accordance with State law, the most qualified firm for construction projects. In addition, the IDA should further enhance procedures to require IDA staff attendance at bid openings be documented and to ensure that liquidated damages amounts are established for untimely project completion.**

## **Finding 10: IDA Construction of Broadband Network**

### **Previously Reported**

In March 2010, the IDA entered into an agreement with a company to govern the construction, maintenance, and ownership of a broadband infrastructure network. The agreement term was 3 years and the agreement required a \$2 million investment by the company. While IDA records indicated that the project was fully constructed by August 2011, the agreement's expiration date was March 2013. Our review of activities through September 2012 indicated that the IDA did not adequately monitor the company's performance under the agreement. The IDA did not, for example, determine the company's

compliance with the matching investment requirement, establish performance requirements, verify the company's compliance with insurance requirements, or obtain required annual compliance certificates from the company. Additionally, the IDA did not capitalize project costs, contrary to generally accepted accounting principles (GAAP), or maintain required insurance coverages.

We recommended that the IDA determine the company's proportional investment in the project, create a schedule to establish performance requirements, ensure evidence that insurance coverage was maintained for each site and location, capitalize project costs in accordance with GAAP, and obtain the required compliance certifications. We also recommended that, for future agreements, the IDA obtain evidence of required insurance coverage prior to beginning new projects.

### **Results of Follow-Up Procedures**

***The IDA's actions corrected this finding.*** As noted in our report No. 2013-102, the project had been fully constructed by August 2011 and the agreement's expiration date was March 2013. Our review of applicable actions taken by the IDA disclosed:

- ***Matching Investment.*** IDA records did not evidence that the company complied with the agreement's matching investment requirement by contributing \$2 million in cash, equipment, and services to the network project (project). However, in March 2013, the IDA contracted with a CPA firm (firm) to perform certain agreed-upon procedures related to the project, including a review of the company's compliance with the matching investment requirement. In June 2013, the firm reported that the company met the matching requirement.
- ***Site Agreement Insurance Coverage.*** Although IDA records did not evidence that the required site insurance coverages were maintained, the agreed-upon procedures conducted by the firm included a review of the insurance coverages. The firm's report indicated that the company and the IDA obtained and maintained the required property and casualty insurance coverages during the project period.
- ***Capitalization of Project Expenditures.*** The IDA's 2011-12 fiscal year financial statements included the capitalization of project costs totaling \$1,999,009. The agreement between the IDA and the company included a provision stipulating that, upon expiration of the agreement, if the company substantially satisfied the requirements of the agreement, title to and ownership of equipment purchased for the project would transfer from the IDA to the company. In October 2013, the IDA Board approved transfer of the assets to the company and the assets were removed from IDA accounting records.

HARDEE COUNTY ECONOMIC DEVELOPMENT AUTHORITY

### **Finding 11: Hangar and Broadband Projects**

#### **Previously Reported**

The EDA did not ensure that grant reimbursement requests for two grants were adequately supported in accordance with the grant agreements and only included expenditures related to the applicable project. We recommended that the EDA implement procedures to ensure that expenditures submitted for reimbursement pertain to the grant award and that reimbursement requests be adequately supported in accordance with the grant requirements.

## **Results of Follow-Up Procedures**

**The EDA's actions corrected this finding.** EDA management indicated that enhanced staff training and procedures were instituted to correct the deficiencies noted. Our test of 9 grant reimbursements totaling \$3.1 million and made during the period March 2013 through April 2015 disclosed that the grant reimbursements were adequately supported, included only expenditures related to applicable projects, and were made in accordance with applicable grant agreements.

HARDEE COUNTY BOARD OF COUNTY COMMISSIONERS

## **Finding 12: BCC Financial Reporting**

### **Previously Reported**

The County's financial statements did not report the IDA as a component unit, contrary to governmental accounting and financial reporting standards. We recommended that, in accordance with the Governmental Accounting Standards Board's accounting and financial reporting standards, the County report the financial activities of the IDA as a discretely presented component unit in its 2011-12 fiscal year basic financial statements.

### **Results of Follow-Up Procedures**

**The BCC's actions corrected this finding.** The County reported the financial activities of the IDA as a discretely presented component unit within its 2011-12, 2012-13, and 2013-14 fiscal year financial statements in accordance with governmental accounting and financial reporting standards.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

Pursuant to Section 11.45(2)(j), Florida Statutes, no later than 18 months after the release of a report on the audit of a local government, we must perform appropriate follow-up procedures as we deem necessary to determine the audited entity's progress in addressing the findings and recommendations contained within our previous report. Pursuant to Section 11.45(3)(a), Florida Statutes, we conducted an audit of the economic development activities administered by the IDA, EDA, and BCC and issued our report No. 2013-102. The objectives of this audit were to determine the extent to which the IDA, EDA, and BCC had taken, or were in the process of taking, actions to address the findings disclosed in our report No. 2013-102.

This follow-up audit was conducted in accordance with applicable generally accepted government auditing standards. Those standards require that we plan and perform the follow-up audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

An audit by its nature does not include a review of all records and actions of the IDA, EDA, or BCC management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

For those activities and functions included within the scope of our follow-up audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the activities and functions; exercising professional judgment in considering significance and audit risk in the design and execution of interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included transactions, as well as events and conditions, occurring during the period March 2013 through April 2015, and selected actions taken subsequent thereto. Our audit included the examination of pertinent IDA, EDA, and BCC records and transactions, inquiry of IDA, EDA, and BCC personnel, observation of procedures in practice, and additional follow-up procedures as appropriate. Unless otherwise indicated in this report, records and transactions were not selected with the intent of projecting the results, although we have presented for perspective, where practicable, information concerning the relevant population value or size and quantifications relative to the items selected for examination. Specifically, we:

- Made inquiries and examined accounting records to determine whether the IDA awarded grants during the period March 2013 through April 2015.
- Evaluated the technology grant assignment and modification agreement (modification agreement) executed between the grantee and the IDA to determine whether the modification agreement included measurable deliverables with established time frames for delivery to enable the IDA to determine grantee performance under the agreement.
- Reviewed IDA grant monitoring activities related to the modification agreement and examined draw requests totaling \$3.1 million made during the period March 2013 through April 2015 to determine whether supporting documentation was obtained, required reports of the project's progression were prepared, and the results of reviews were presented to the IDA Board. Additionally, we reviewed the results of a Grand Jury investigation and a draft examination report pertaining to the original and modification agreements for the technology grant.
- Made inquiries and examined accounting records to determine whether the IDA entered into any agreements similar to the agreement referenced in finding No. 4 of our report No. 2013-102.
- Reviewed IDA annual financial reports filed with the Florida Department of Financial Services for the 2011-12 and 2012-13 fiscal years.
- Reviewed IDA annual financial audit reports for the 2012-13 and 2013-14 fiscal years to determine whether the reports were timely filed and if material weaknesses existed or persisted.
- Reviewed banking agreements for all four IDA bank accounts used during the period March 2013 to April 2015 to determine whether the agreements were timely updated for personnel or Board member changes. Additionally, we reviewed all checks disbursed during March 2013, December 2013, and July 2014 for the two accounts with the most disbursement activity to determine whether the checks contained the signatures of two authorized signers.
- Determined whether a staffing agreement had been executed between the IDA and EDC and evaluated IDA and EDC explanations for not executing such an agreement.
- Evaluated IDA construction processes for one construction and one renovation project undertaken during the period March 2013 through April 2015 to determine whether the IDA selected construction management entities in accordance with State law, ensured that the

subcontractor selection process was properly monitored, and implemented procedures to impose penalties for untimely project completion and document support for subcontractor charges, general condition costs, and payment and performance bonds.

- Scanned and evaluated direct material purchases to determine whether the IDA appropriately used its sales tax exemption.
- Determined whether the IDA obtained evidence of the proportional investment and insurance coverages from the company providing the Broadband Network project. Additionally, we reviewed annual financial reports for the 2011-12, 2012-13, and 2013-14 fiscal years to verify that IDA properly accounted for project costs in accordance with generally accepted accounting principles.
- Of 35 EDA grant reimbursements totaling \$5.9 million made during the period March 2013 through April 2015, examined documentation for 9 reimbursements totaling \$3.1 million to determine whether the disbursements pertained to the related grant award and were adequately supported in accordance with grant requirements.
- Reviewed the County's 2011-12 and 2012-13 fiscal years' annual financial statements to determine whether the IDA's financial activities were presented as a component unit of the County.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

## ***AUTHORITY***

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Pursuant to the provisions of Section 11.45(2)(j), Florida Statutes, I have directed that this report be prepared to present the results of our follow-up procedures regarding findings and recommendations included in our report No. 2013-102, operational audit of the economic development activities administered by the Hardee County Industrial Development Authority, Hardee County Economic Development Authority, and Hardee County Board of County Commissioners and other administrative matters.



Sherrill F. Norman, CPA  
Auditor General



## MANAGEMENT'S RESPONSE

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Hardee County  
Economic Development Office  
107 E. Main St, Wauchula, FL 33873

**HARDEE COUNTY**  
ECONOMIC DEVELOPMENT COUNCIL



**HARDEE COUNTY**  
INDUSTRIAL DEVELOPMENT AUTHORITY

December 8, 2015

Sherrill F. Norman, CPA  
Auditor General, State of Florida  
Claude Denson Pepper Building, Suite G74  
111 W. Madison St.  
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Pursuant to Section 11.45(4)(d), Florida Statutes, requiring written explanation and response within thirty (30) days, enclosed is my response as Chair of the Hardee County Industrial Development Authority on behalf of the IDA and the Hardee County Economic Development Council to your letter of November 10, 2015, including a list of preliminary and tentative audit findings and recommendations that may be included in a report to be prepared on your operational audit follow-up to Operational Report 2013-102.

We appreciate the time and effort your staff has taken in conducting this review of our operations, and we are pleased to note that your office has concluded that on 8 out of 10 areas of initial concern that we have either corrected the matter or have had no occasion on which to correct them. On the other two matters, your office has found that we have partially remedied the situations, and I want to assure you we intend to fully address those matters moving forward.

We have accepted this review as an opportunity for us to demonstrate our efforts toward compliance and continual improvement with our monitoring and award processes.

Please contact this office if you have any questions or concerns.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Van H", is written over a light blue horizontal line.

Vanessa Hernandez, Chair  
Hardee County Industrial Development Authority



**HARDEE COUNTY  
ECONOMIC DEVELOPMENT COUNCIL  
HARDEE COUNTY  
INDUSTRIAL DEVELOPMENT AUTHORITY**

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**RESPONSE TO PRELIMINARY AND TENTATIVE AUDIT FINDINGS**

***SUMMARY***

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Below are the acknowledgements and responses of the Hardee County Economic Development Council / Hardee County Industrial Development Authority in reference to the Follow Up Report by the State of Florida Auditor General's office on the Operational Report 2013-102 regarding economic development activities administered by the Hardee County Industrial Development Authority, Hardee County Economic Development Authority and Hardee County Board of County Commissioners.

***FINDING RESPONSES***

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*Finding 1: Compliance with Chapter 159, Florida Statutes – The IDA's actions corrected this finding.*

**IDA Chair Response:** We agree with the Auditor General's evaluation of our actions. Per the Attorney General Opinion No. 2013-12 issued June 6, 2013, the IDA was within their authority to enter into the awarded grant contract. We also agree that we have not executed any similar grants.

*Finding 2: Grant Agreement Design – The IDA had no occasion to correct this finding.*

**IDA Chair Response:** We agree with the Auditor General's summary that there was no occasion to correct this finding as it relates to awarding any new grants. We would also like to note or have consideration given that the IDA did make effort to improve the monitoring process and improve deliverables on the subject project as well as introduce a potential remuneration agreement as negotiation permitted.

*Finding 3: Grant Monitoring – The IDA’s actions partially corrected this finding.*

IDA Chair Response: The report substantially cites a Presentment from the local grand jury empaneled by the district State Attorney and acknowledges that the IDA drafted and approved responses to the Presentment. While we intend no disrespect to the grand jury process, it must be noted and understood that a Presentment is not a “finding of fact;” none of the witnesses have been subject to cross-examination, nor have any of the conclusions been tested in a court of law. Nonetheless, as reflected in the IDA Board Minutes, the board responded positively by discussing options to add co-counsel, implement an annual evaluation process and also has discussed improving grant monitoring processes and implemented improvements in the monitoring of EDA grants.

As to the validity of including the Presentment and citing this in the re-audit, GAO-12-331G – Section 6 – this document outlines several areas that make inclusion of this “evidence” in an audit immaterial unless the auditors reviewed and substantiated the information and claims presented therein, or the credentials of those “creating” and evaluating the evidence.

-The State Attorney’s office published information that was not released to the public or in the custody of a public official that they obtained through subpoena power. There is ongoing litigation with all parties related to this particular project to determine and define what should be considered subject to F.S. 288.075 and F.S. 119. Evidently there is no case law to answer for this that we are aware of. Concerns related to the Presentment were not discussed by the audit staff with the IDA in the exit interview so they could be addressed. The IDA Chair did communicate the concerns on the above to the Auditor General’s office prior to formulating the responses.

-Similarly, in reference to the circumstances related to the audit, the IDA concurs that the draft report was presented in the December 2014 meeting. After discussion on the questioned costs and related party costs and hearing input from the audit firm, the IDA discussed considering other costs incurred but not listed during and after the audit period to substantiate the project’s investment outside of IDA funding. Clifton Larsen Allen was asked if they would be able to substantiate additional capital invested in the company by the principals and other sources along the guidelines requested by the IDA. CliftonLarsonAllen confirmed that they could and they were directed to do so by the IDA board and billed the IDA for these services. At a subsequent meeting, they provided confirmation to the IDA and shared the information requested. The IDA discussed considering these investments as an offset to the “Questioned Costs” referenced.

-Similarly the IDA has strong concerns regarding the appropriateness of including the report by the CliftonLarsonAllen firm when this firm is also a party in the lawsuit that is currently pending related to this matter. We would like to note however, the IDA has not challenged the content of that portion of the Clifton Larsen Allen Audit Report.

On another note, although some local parties have been unreasonably critical of this same project and have attempted to derail it through constant harassment, it should be noted the project has managed to not only survive but thrive from our initial investment. It has had 2 subsequent rounds of investor funding, totaling to date roughly \$23 Million. As of the latest totals, it has created more than 100

current jobs in Hardee County, and it is expect to reach an annual payroll of more than \$4 Million by the end of 2016. Investors in the project include such highly regarded institutions as Merck Global Health Innovation Fund (Merck GHI), Greycroft Partners and Harbert Venture Partners.

*Finding 4: Acquisition of Building for Technology Center – The IDA had no occasion to correct this finding.*

IDA Chair Response – The IDA concurs with the finding that there was no opportunity to correct the criticisms cited in the original audit and has to date not entered into similar agreement.

*Finding 5: The IDA's Financial Reporting – The IDA's actions corrected this finding.*

IDA Chair Response – The IDA concurs with the finding that IDA actions corrected the finding. Of note, once brought to the IDA's attention, financial reporting has remained consistently timely in their filings.

*Finding 6: Independent Auditor's Findings – The IDA's actions corrected the finding.*

IDA Chair Response – The IDA concurs with the finding that IDA actions corrected the finding and in addition has added appropriate internal controls. Also, the IDA board has advised with another audit/accounting firm to assist in managing and ensuring proper internal controls are followed.

*Finding 7: IDA Bank Accounts – The IDA's actions corrected this finding.*

IDA Chair Response – The IDA concurs that our actions corrected this finding. Furthermore, we have maintained timely transition of updating signature cards as needed to ensure compliance.

*Finding 8: IDA Staffing – The IDA's actions corrected this finding.*

IDA Chair Response – The IDA concurs that our actions, assisted by the resolution by the BOCC to consolidate the IDA/EDC boards, resolved any staffing conflict of EDC staff duties therefore negating the need or validity of a contract between entities.

*Finding 9: IDA Construction of Spec Building – The IDA partially complied with recommendations.*

IDA Chair Response – The IDA will continue to improve upon and refine its construction management procedures related to competitive selection, focusing particularly on projects expected to exceed the project cost limits of \$2,000,000.

The IDA will maintain a roster of persons attending bid openings beyond the “initials” of staff provided in previous documentation.

Contracts will be negotiated henceforth ensuring liquidated damage amounts are established with adequate financial protections against untimely project completion.

*Finding 10: IDA Construction of Broadband Network – The IDA’s actions corrected this finding.*

IDA Chair Response – The IDA concurs that our actions corrected these findings. At the conclusion of this project, an audit of contract deliverables occurred to ensure compliance with the contract. The independent auditor was able to conclude the project exceeded the required matching contributions of \$2 Million and substantiated a total investment by Rapid of over \$6 Million.