

House Oversight and Investigations Committee
Opening Remarks
Greg Main, President and CEO
Michigan Economic Development Corp.
March 23, 2010

Good afternoon Chairman Griffin and members of the committee. Thank you for the opportunity to appear before you today.

As you know, the CEO of a company that was approved for tax credits last week is in jail today for parole violations and other charges.

That action by the MEGA board was rescinded as soon as we learned about his background, an investigation into his dealings and subsequent arrest.

It bears noting and repeating that there was no upfront cash involved in this action and the State has not granted any funds to this company.

When a MEGA award is approved, the company and the state agree it will receive tax credits when it reaches investment and job creation or retention measures as spelled out in the agreement.

There is no cash involved as part of the MEGA award except an application fee paid by the company. The MEGA award is performance-based and costs the state nothing if the company fails to meet the terms of its agreement.

However, the credibility of the MEGA program and the reputation of the MEDC have been damaged.

There was also the potential had he not been arrested, the applicant could have used this agreement to dupe others.

Governor Granholm has been active in the review of this matter, first of all demanding an explanation on how this happened, directing us to engage the Michigan State Police, helping us improve our procedures and indentifying needed structural changes and legislation.

These matters are being addressed in an Executive Directive and Executive Order which I understand will be issued today.

I want to review with the committee the details of the changes we are making internally.

The MEDC Executive Committee is also forming a sub committee to review and determine whether additional changes are necessary.

We welcome, as we always have, the guidance and the wisdom of the Legislature as we improve and strengthen our procedures.

The MEGA program remains an important part of our economic development tool box and we need to restore the integrity, credibility and confidence of the program.

The changes we are proposing and hope to achieve working with the Legislature will accomplish that.

In closing, let me say that we share your outrage.

Our internal investigation found that the way we review tax credit applications has not changed in 16 years - not since 1994. That's a long time, and the world has changed.

When jobs are at stake our goal is to move quickly so communities, businesses and workers can benefit as quickly as possible.

However, we cannot move so quickly that we fail to perform our due diligence.

There will always be con men drawn to new schemes and sources of money. However, it is our duty to screen them out, and we will.

If there is one thing we can all agree on it's this: There is nothing more important than growing our economy and creating jobs. And you can help - you know your communities, and if you know of a business or project in your district that could benefit from funds, please encourage them to apply.

Working together, we can ensure we put as many of our dollars as possible in the economic development pipeline.

Thank you.

I would now like to review in detail the steps we are taking to improve the review process and to prevent any reoccurrence.

MICHIGAN ECONOMIC GROWTH AUTHORITY

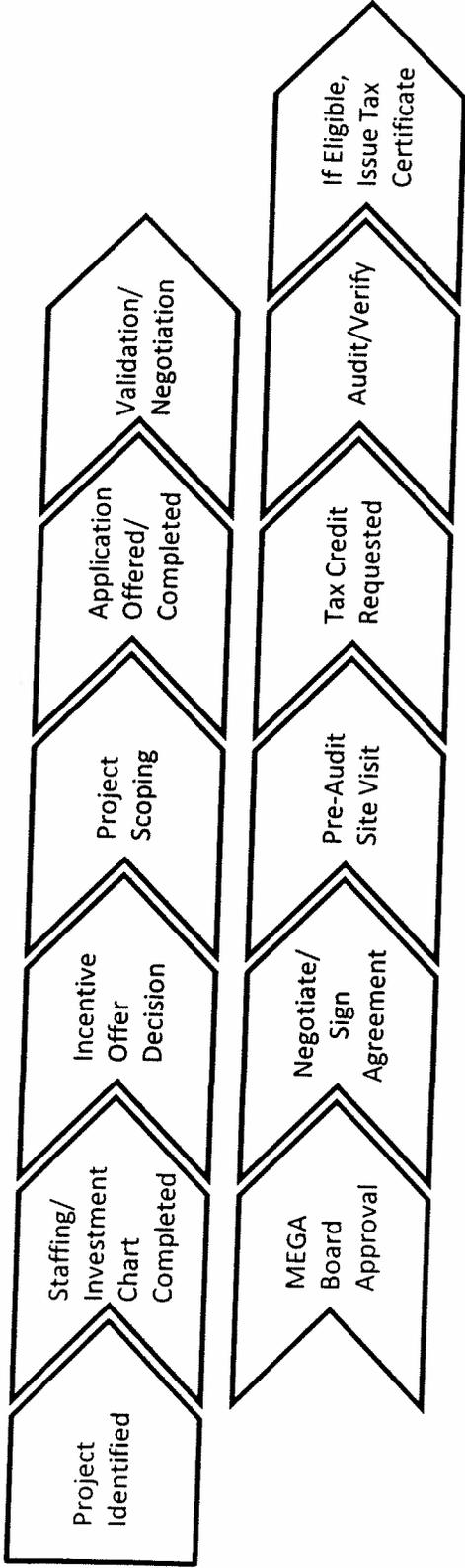
Business Integrity Verification Program

To ensure the integrity of the Michigan Economic Growth Authority's (MEGA) tax credit program, pursuant to its discretionary authority to grant tax credits under the Michigan Economic Growth Authority Act, MCL 207.801 et seq., MEGA implements the following policy to verify the business integrity of each of the key persons for any recipient of a tax credit. This policy does not apply to an entity that is an issuer of a security, as defined in PA ???.

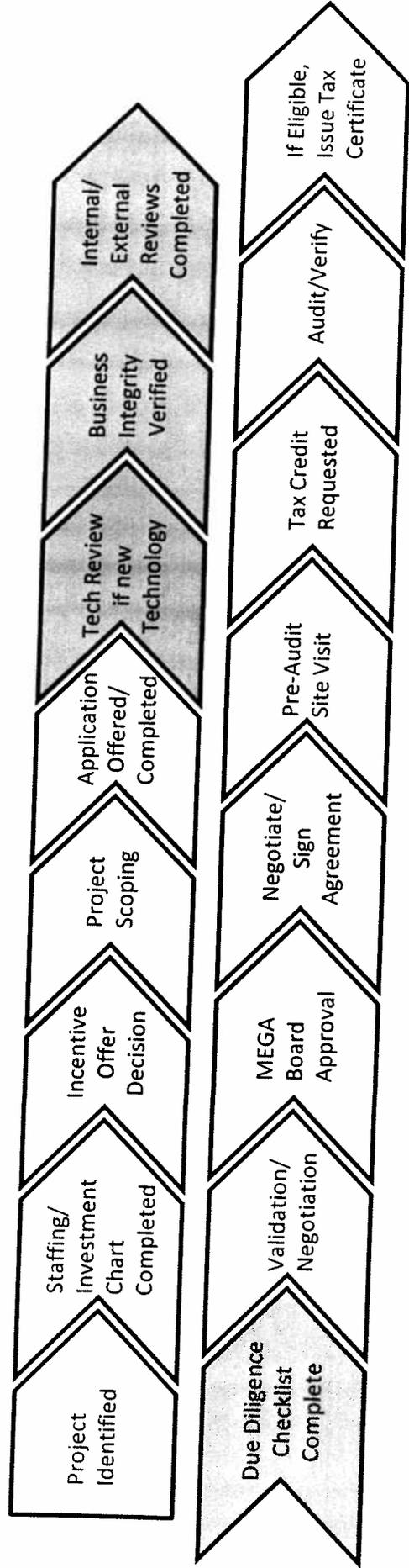
1. Each individual identified in a tax credit applicant's application as a director, officer, partner, member, or any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more of a company applying for a tax credit shall be considered a "key person."
2. All key persons of applicants that apply to MEGA for a tax credit, except for an Issuer of a Security, shall be required to complete the MEGA Credit Applicant Key Person Questionnaire.
3. In addition to providing background information regarding the key person, the MEGA Credit Applicant Key Person Questionnaire shall include authorization for MEGA and/or MEGA's designee, the Michigan Economic Development Corporation (MEDC), to conduct criminal history and criminal background checks on that key person.
4. The MEDC, as MEGA's designee, shall review completed MEGA Credit Applicant Key Person Questionnaires to determine whether that information reveals any deficiencies that should compel MEGA to not award a tax credit.
5. Upon receipt of MEGA Credit Applicant Key Person Questionnaires for an applicant's key persons, MEGA or the MEDC shall conduct a criminal history report and criminal background check of each key person.
6. In addition to the MEGA Credit Applicant Key Person Questionnaire, criminal history report, and criminal background report, the MEGA or the MEDC may undertake all reasonable investigative techniques to verify the business integrity of all key persons of MEGA Credit recipients.
7. If MEGA or the MEDC identify any item in the MEGA Credit Applicant Key Person Questionnaire or an individual's criminal history report or criminal background check that may indicate that a key person lacks sufficient business integrity, the MEDC's CEO shall review the evidence and determine, in his or her sole discretion, whether and to what extent to report such information to MEGA.
8. Upon determination by the MEDC that information discovered during a key person's background investigation will be reported to MEGA as rationale for not issuing a tax credit, the applicant may submit to MEGA a response explaining why the applicant should still be eligible for a MEGA Credit.

9. MEGA shall determine, in its sole discretion, whether the information submitted by the MEDC, taken together with the response submitted by an applicant, compel the declination of a tax credit application due to a key person's lack of business integrity.

Former MEGA Process



New MEGA Process



MEGA Application Process - **Now**

1. Business Development Manager meets with company and identifies a potential project
2. Company is asked to complete a Staffing and Investment Chart which includes information about:
 - Project
 - Wages
 - Jobs
 - Benefits
 - Source of financing
3. Project goes to Packaging meeting for discussion, assignment of a Packager and decision on incentives to be offered
4. Packager scopes the project: meets with company to understand the project and make a determination where the company meets the MEGA criteria
5. MEGA application is authorized and requests information on: company officers, detailed project description including the business case, job creation and wages, etc.
 - a. Draft Application is submitted by company and reviewed by Packaging and Program Admin.
 - b. Final application received
6. Final application is reviewed/validated and Terms letter is negotiated with company
7. MEGA Board approval
8. MEGA Credit Agreement negotiated and signed
9. MEGA Pre-Audit – Program Admin. staff conduct a site visit to explain MEGA record keeping and other requirements for collecting the tax credit
10. Annual Tax Credit Certificate submitted by company
11. MEDC audit and verification of payroll numbers before the Certificate is issued to the company
12. If eligible, Certificate is attached to the tax return filed by the company

MEGA Application Process – **New and Improved**

1. Business Development Manager meets with company and identifies a potential project.
2. Company is asked to complete a Staffing and Investment Chart which includes information about:
 - Project
 - Wages
 - Jobs
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 - Source of financing
3. Project goes to Packaging meeting for discussion, assignment of a Packager and decision on incentives to be offered
4. Packager scopes the project: meets with company to understand the project and make a determination where the company meets the MEGA criteria
5. MEGA application is authorized and requests information on: company officers, detailed project description including the business case, job creation and wages, etc.
 - a. Draft Application is submitted by company and reviewed by Packaging and Program Admin.
 - b. Final application received
 - c. Final application reviewed and Terms letter issued to company
6. **If project involves new technology, a technology review is conducted**
7. **Business Integrity verified for key persons, i.e. officers, directors, individuals with 20% pecuniary interest performed (including criminal, civil, credit)**
8. **Other internal and external reviews completed (DELEG, Director of Program Admin, MEDC General Counsel, Attorney General)**
9. **Packaging Director signs off on completed due diligence checklist**
10. Final application reviewed/validated and Terms letter is negotiated with company
11. MEGA Board approval
12. MEGA Credit Agreement negotiated and signed
13. MEGA Pre-Audit Program Admin. staff conduct a site visit to explain MEGA record keeping and other requirements for collecting the tax credit

14. Annual Tax Credit Certificate application submitted by company
15. MEDC audit and verification of payroll numbers before the Certificate is issued to the company
16. If eligible, Certificate is attached to the tax return filed by the company

MICHIGAN ECONOMIC DEVELOPMENT CORPORATION

Applicant—Key Person Questionnaire

Background

Company Name: _____

Full Name: _____ Position and Title: _____

Home Address: _____
City/State/Zip

Date of Birth: _____ Driver's License Number: _____

Business Integrity

1. **Citations.** Have you ever been cited for a breach of ethics for unprofessional conduct by, or been named in, a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If yes, please provide details. Yes ___ No ___
2. **Convictions.** Have you ever been convicted of or entered a plea of guilty or nolo contendere or forfeited collateral for any criminal violation other than a minor traffic offense? If yes, please provide details. Yes ___ No ___
3. **Current Charges.** Are you now under charges for any violation of law? If yes, please provide details. Yes ___ No ___
4. **U.S. Military Convictions:** Have you ever been convicted by any military court? If yes, please provide details. Yes ___ No ___
5. **Imprisonment.** Have you ever been imprisoned, been on probation, or been on parole? If yes, please provide details. Yes ___ No ___
6. **Immunity.** Have you ever been granted immunity or been named as an indicted co-conspirator? If yes, please provide details. Yes ___ No ___
7. **Taxes.** Do you currently owe past due taxes to any government entity? Yes ___ No ___
8. **Tax Complaints.** Has there been filed against you or have you ever been served a complaint, lien, judgment, or other notice filed with any public body regarding the payment of any tax required under federal, state or local law? If yes, please provide details. Yes ___ No ___
9. **Bribes.** During the past ten-year period, have you held a ten percent (10%) or greater ownership interest or been a director, officer, or principal employee, of any corporation, partnership, sole proprietorship or other business entity that has made (either itself or through third parties) bribes or kickbacks to any employee, company or organization to obtain a competitive advantage, or to any government official, domestic or foreign, to obtain favorable treatment? If yes, please submit a complete explanation of the circumstances. Yes ___ No ___

10. Individual Bankruptcy. Have you ever filed for any type of bankruptcy or been involved in any formal process to adjust, defer, suspend or otherwise work out payment of any debt? If yes, please provide details. Yes ___ No ___
11. Corporate Bankruptcy. Has any business in which you had an ownership interest or in which you served as an officer or director, ever been declared bankrupt by a court, or filed any type of bankruptcy or insolvency? If yes, please provide details. Yes ___ No ___
12. Garnishment. Have your wages, salary or other income ever been subject to garnishment, attachment, charging order or the like during the past five (5) years? If yes, please explain. Yes ___ No ___
13. Bonding. Have you ever been bonded for any purpose or been refused or denied any type of bond? If yes, please provide details. Yes ___ No ___
14. Agency Proceedings: Civil Litigation. Are you presently, or have you ever been a party in interest in any administrative agency proceedings or civil litigation which is related in any way to the position to which you seek to be appointed? If yes, please provide details. Yes ___ No ___
15. Agency Proceedings and Civil Litigation of Affiliates and Family. Has any business in which you are or were an officer, director or partner been a party to any administrative agency proceedings or civil litigation involving allegations of dishonesty, deception, theft, embezzlement, fraud, misrepresentation, civil conspiracy, breach of contract, unethical or unlawful business practices, false claims, securities violations, or any other claim that may be relevant to determining your business probity? If yes, please provide details. Yes ___ No ___

Consent And Certification

I consent to the release of information concerning the information contained herein to the Michigan Economic Development Corporation (MEDC), Michigan Strategic Fund (MSF), and/or the Michigan Economic Growth Authority (MEGA). I specifically authorize the MEDC, MSF, and/or MEGA to do a criminal, civil, or credit background check on me.

I, _____, certify that the information provided in this statement is, to the best of my knowledge, true and accurate.

Signature: _____

Dated: _____

Project Packaging Checklist

Account Name: _____ Opportunity: _____

1. Contact Information for Legal Counsel		Received	Approved	Not Approved
	Packaging			
<u>Comments:</u> <div style="height: 80px;"></div>				

2. Financial and Legal Documents				
<i>Corporate records including, but not limited to:</i>				
<ul style="list-style-type: none"> - Articles of Incorporation/Organization (MEDC validate with DELEG) 	Packaging			
<u>Comments:</u> <div style="height: 80px;"></div>				
<ul style="list-style-type: none"> - Certificate of Good Standing (MEDC validate with DELEG) 	Packaging			
<u>Comments:</u> <div style="height: 80px;"></div>				
<ul style="list-style-type: none"> - Schedule showing for the Company and each of its subsidiaries: name, jurisdictions where qualified to do business, and jurisdictions where it owns or leases real property 	Packaging			
	Legal			
<u>Comments:</u> <div style="height: 80px;"></div>				

<i>Financing information including, but not limited to:</i>		Received	Approved	Not Approved
<ul style="list-style-type: none"> - Audited consolidated financial statements and the notes thereto for the past five years (or the earliest date available) for the Company. In the event audited financial statements are not available, we will accept compiled financial statements certified by an officer (CEO or CFO equivalent) of the Company 	Packaging			
	Finance			
<u>Comments:</u>				
<ul style="list-style-type: none"> - Most recent internal financial statements for the Company, i.e., for any period subsequent to that which is covered by the financial statements submitted in one (1) above 	Packaging			
	Finance			
<u>Comments:</u>				
<ul style="list-style-type: none"> - Audited financial statements for any enterprises merged with, or acquired by, the Company in the last five years. Reviewed or compiled financial statements are to be submitted in the event that an audit has not been performed 	Packaging			
	Finance			
<u>Comments:</u>				
<i>Financing Documents:</i>				
<ul style="list-style-type: none"> - Bank of Record Contact Information 	Packaging			
	Finance			
<u>Comments:</u>				

		Received	Approved	Not Approved
- Bank Certification of Funds	Packaging			
	Finance			

Comments:

Other Documents:

- A list of licenses and permits necessary for the Company to perform under the award agreement	Packaging			
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Comments:

- Copies of all environmental reports and all correspondence, notices, and files related to federal, state or local regulatory agencies	Packaging			
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Comments:

3. Technology Review

	Packaging			
	SVP BDA			

Comments:

4. Background Check		Received	Approved	Not Approved
-Criminal	Packaging			
	Legal			
<u>Comments:</u>				
-Civil	Packaging			
	Legal			
<u>Comments:</u>				
-Credit	Packaging			
	Legal			
<u>Comments:</u>				

5. All Documents Supporting "Yes" Responses in Key Person Questionnaire				
	Packaging			
	Legal			
<u>Comments:</u>				

Overall Checklist Review and Sign-Off

Packaging Supervisor / Director

Signature

Date

Business Services VP

Signature

Date

2010 MEGA Tax Credit Application Pre-Audit Process

Scope: All annual MEGA Tax Credit Applications received after 1/1/2010

Process:

- 1) Company submits completed MEGA Tax Credit Annual Application Excel spreadsheet with the requested fields including:
 - Employee ID
 - Job Title
 - Income Tax Withheld (Yes/No)
 - Social Security Withheld (Yes/No)
 - State of Residency
 - Name and Location of Company
 - EIN of Company
 - Hire/Transfer In Date
 - Termination/Transfer Out Date
 - Salary or Hourly
 - Total Weeks Actually Worked
 - Total Hours Actually Worked
 - Quarterly W-2 Box 1 Wages
 - Disclosure of any and all material changes to Company information provided within the original project application. *
- 2) MEGA Analyst reviews information against the MEGA Tax Credit Agreement, legislation, and internal policies and asks the company for further details if needed
- 3) Once the spreadsheet is complete, the Program Audit Specialist conducts a site visit to review selected payroll, W-2's and the Michigan Unemployment Agency Form 1020's against the spreadsheet and verify site location
- 4) Upon satisfactory review, the MEGA Tax Credit Application package is compiled by the MEGA staff for management approval and the MEGA Tax Credit Certificate is issued to the company if the company qualifies for the credit

*Material changes would include, but are not limited to, change in officers, change in good standing with the state, or any other change that would significantly impact the MEGA tax credit etc.

2010 MEGA Tax Credit Application Backlog Audit Process

Scope: 100% audit of all 2006-2009 MEGA Tax Credit Applications received before 1/1/2010; includes 162 MEGA Tax Credits, many with multiple tax years. The backlog audit will be completed by September 2010 and the MEDC has engaged an outside CPA firm to assist with this project.

Process:

- 1) Company is sent audit spreadsheet to be completed, as detailed in step 1 of the MEGA Pre-Audit Process above
- 2) Once completed audit spreadsheet is received, it is reviewed by the Program Audit Specialist against the MEGA Tax Credit Agreement, legislation, and internal policies
- 3) Employee wages and headcount by quarter are identified; employees may be disqualified if they don't meet the conditions of the MEGA Tax Credit Agreement, legislation, and internal policies
- 4) Once the spreadsheet review is complete, the Program Audit Specialist conducts a site visit to review selected payroll, W-2's and the Michigan Unemployment Agency Form 1020's against the spreadsheet and verify site location
- 5) If the company has a Business Activity Credit, the value of the property which is the subject of the credit and the C-8000 are also reviewed against the information submitted on the MEGA Tax Credit Application
- 6) Any discrepancies are noted, companies are notified of a 30 day period to dispute any findings, and final results will be submitted to Michigan Department of Treasury for disposition

2009 MEGA Tax Credit Application Backlog Audit Process

Scope: 33 MEGAs with 2007 MEGA Tax Credit Applications

Process:

- 1) Company was sent an audit spreadsheet to be completed, including:
 - Employee ID
 - Job Title
 - State of Residency
 - Location of Employment
 - Date Hired
 - Date Terminated
 - Total Weeks Actually Worked
 - Total Hours Actually Worked
 - Quarterly W-2 Box 1 Wages
- 2) Even if a company did not capture information in each category, sufficient information was received from each company to verify employee wages and headcount
- 3) Audit spreadsheet was compared against the MEGA Tax Credit Agreement, legislation, and internal policies
- 4) Aggregate headcount and wages were compared against the Unemployment Agency Form 1020
- 5) During the audit period, selected W-2's and transfer of employment documents were requested and the spreadsheet was reviewed against all of these supporting documents

- 6) Data was reviewed related to payroll, C-8000 and property values to support the Business Activity Credit portion of the MEGA Tax Credit, where applicable
- 7) Any discrepancies were noted, companies were notified of a 30 day period to dispute any findings, and final results will be submitted to Michigan Department of Treasury for disposition

2009 MEGA Tax Credit Application Backlog Audit Process

Scope: 76 MEGAs with 2003-2005 Tax Credit Applications

Process:

- 1) The Program Audit Specialist conducted an analysis of jobs creation using the individual company records, either on-site or electronically provided, to determine the accuracy of reported summary data in the MEGA Tax Credit Applications
- 2) An audit workpaper was utilized to capture total base jobs, total Qualified New Jobs or Retained jobs and data related to property values and payroll to support the Business Activity Credit portion of the MEGA Tax Credit where applicable
- 3) The Business Process Review staff compiled an analysis of all summary data by company, including utilization, job creation, and variances found and reported findings to management. The same information was submitted to Michigan Department of Treasury in 2007.