LEGISLATIVE
AUDIT
COMMISSION

Review of
Department of Commerce and Economic Opportunity
Two Years Ended June 30, 2014

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REVIEW: 4442
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY
TWO YEARS ENDED JUNE 30, 2014

FINDINGS/RECOMMENDATIONS - 11
ACCEPTED - 2
ACCEPTED AND PARTIALLY IMPLEMENTED - 4
IMPLEMENTED - 5

REPEATED RECOMMENDATIONS - 6
PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 9

This review summarizes the auditors' report of the Illinois Department of Commerce and Economic Opportunity for the two years ended June 30, 2014, filed with the Legislative Audit Commission on April 16, 2015. The auditors performed a compliance examination in accordance with State law and *Government Auditing Standards*.

The mission of the Department of Commerce and Economic Opportunity (DCEO) is to raise Illinois' profile as a premier global business destination and to provide a foundation for the economic prosperity of all Illinoisans, through coordination of business recruitment and retention, provision of essential capital to small businesses, investment in infrastructure and job training for a 21st century economy, and administration of state and federal grant programs.

The Department's Regional Field Offices provide front-line services to areas of the State. The offices are located in Aurora, Bloomington, Bourbonnais, Canton, Champaign, Chicago, Collinsville, Galesburg, Joliet, Libertyville, Marion, Moline, Olney, Peoria, Quincy, Rockford, Springfield, and Viola. Additionally, the Department has foreign offices in Brussels, Hong Kong, Jerusalem, Mexico City, New Delhi, Shanghai, Tokyo, Toronto, and Warsaw.

DCEO is functionally organized into thirteen operating Offices: Central Administration; Business Development; Coal Development; Community Development; Employment & Training; Energy Assistance; Entrepreneurship; Innovation & Technology; Energy & Recycling; Illinois Film Office; Regional Economic Development; Tourism; Trade & Investment; and Urban Assistance.

David Vaught was the Director during the first few months of the audit period. Mr. Vaught was succeeded by Adam Pollet who served as Director from November 2012 through January 19, 2015. Thereafter, Andria Winters served briefly as Acting Director until Jim Schultz was appointed Director effective February 16, 2015. Mr. Schultz remains as Director; he was not previously employed by the Department.

According to information supplied by DCEO for the report, during FY14, the Department supported the creation of 11,492 jobs, the retention of 14,234 jobs, and $2.7 billion in private investment. Over 54,800 individuals were trained through DCEO's various programs. The Small Business Development Centers set a record with 597 new business starts. Hotelmotel tax receipts set a new high of $237.4 million and Film industry expenditures rose 20% to $294.9 million. Illinois' World Institute for Strategic Economic Research (WISER) established a new high of $68.5 billion in FY14. Also, 452,867 households were provided assistance through the Low Income Home Energy Assistance Program (LIHEAP). The dollar value of Illinois export sales was projected at $68.2 billion in 2014.

The average number of employees by division in the years indicated was as follows:

	FY14	**FY13**	**FY12**
General Administration	116	106	108
Office of Tourism	16	18	16
Office of Employment & Training	54	56	63
Office of Entrepreneurship, Innovation, and Technology	20	21	22
Office of Regional Outreach	22	21	20
Office of Business Development	26	26	26
Office of Coal Development	9	9	9
Illinois Film Office	6	6	6
Office of Trade and Investment	15	12	13
Office of Energy Assistance	33	24	18
Office of Community Development	20	25	25
Office of Energy & Recycling	27	33	24
American Recovery and Reinvestment Act	0	15	34
TOTAL	**364**	**372**	**399**

Expenditures From Appropriations

The General Assembly appropriated a total of $3.248 billion from 40 different funds to the Department of Commerce and Economic Opportunity in FY14, a decrease of $75.8 million, or 2.3%, compared to FY13. Expenditures were almost $1.052 billion in FY14 and $979 million in FY13, an increase of $72.9 million, or 7.4% in FY14 compared to FY13. Appendix A summarizes expenditures by fund, while Appendix B compares expenditures by object for FY14 through FY12. Some of the significant changes in expenditures by fund and object are explained as follows:

- $13 million increase in GRF was due to an increase in appropriation authority for awards and grants;
- $7 million decrease in Small Business Credit Initiative Fund due to the decrease in grant expenditures resulting for the decline in investments under the Advantage Illinois;
- $42 million increase in Supplemental Low Income Energy Assistance Fund due to the increase in utilization of funds for energy assistance awards;

- $13.9 million increase for awards and grants due to a one-time appropriation in the FY09 Budget Relief Fund;
- $15.7 million increase for awards and grants in the Low Income Home Energy Assistance Block Grant Fund;
- $21.2 million decrease in awards and grants from the Community Development/Small Cities Block Grant Fund due to a decrease in federal awards; and
- $18 million increase in awards and grants from the Build Illinois Bond Fund.

Lapse period expenditures were $110.1 million, or 10.4%. Most of the lapse period spending was due to grants that were finalized late in FY14 causing payments to be made during the lapse period from GRF ($20.7 million), Tourism Promotion Fund ($7 million), Energy Efficiency Portfolio Standards Fund ($23.4 million), Supplemental Low Income Energy Assistance Fund ($14 million), and Low Income Home Energy Assistance Block Grant Fund ($16.7 million).

Cash Receipts

Appendix C is a summary of the Department's cash receipts for FY14 – FY12. Total cash receipts were $691.3 in FY14 compared to $751.4 million in FY13, which is a decrease of 8.0%. The largest share of receipts in FY14 was from federal grants at $475.6 million; however, federal grants were $544.2 in FY13. Receipts in FY14 from licenses/fees and private donors, largely utility companies, were $122.3 million and $77 million, respectively.

Property and Equipment

Appendix D provides a summary of property and equipment for FY14 and FY13. The Department's assets, represented almost entirely by equipment, decreased from $5,535,244 as of July 1, 2012 to $4,883,452 as of June 30, 2014.

Accounts Receivable

At June 30, 2014 the Department had $4,668,000 in gross receivables, of which the majority was outstanding loans receivable. $3,604,000 was estimated as uncollectible. Of the $1.06 million in loans outstanding, the vast majority was current. The Department uses the Office of the Comptroller's offset system and the Attorney General's Office to collect overdue receivable balances.

Accountants' Findings and Recommendations

Condensed below are the 11 findings and recommendations presented in the compliance examination report. There were six repeat recommendations. The following recommendations are classified on the basis of updated information provided by Phil Wyatt, Acting Chief Accountability Officer, and received via electronic mail on July 1, 2015.

Accepted or Implemented

1. Strengthen controls over the grant administration process including grant monitoring and review. (Repeated-2008)

<u>Finding:</u> The Department of Commerce and Economic Opportunity (Department) did not ensure adequate controls were established in the administration of grant programs.

The Department expended $1.78 billion for awards and grants during the two-year examination period, which included total expenditures of $2.03 billion. Auditors tested 62 grant agreements and identified a number of issues. Some of the items noted are as follows:

- Based on testing of monitoring for 5 grants in the Office of Energy and Recycling (Office), the Office did not have an adequately designed methodology or guidelines to ensure efficient and effective onsite monitoring. Department management stated the failure to design and implement an effective onsite monitoring review methodology and failure to perform the desk review adequately are due to lack of resources and manpower.

- The Department did not ensure payments to grantees were made only after required reports were received and approved by the Department in compliance with the grant agreement. In 14 of 62 (23%) grants tested, the grant agreements were executed more than 30 days after the beginning date of the grant term. The Department disbursed funds totaling $16,002,671 prior to approving required reports that would allow for the disbursement of the funds. Department management stated this was due to a failure to effectively communicate to the staff that the initial voucher payment on a grant is not allowed to be released without the manually signed Grant Report covering all of the months prior to the grant execution.

- The Department did not return 2 of 9 refund vouchers tested to the grantor organization in a timely manner. One of the referenced refund vouchers consisted of multiple unspent grants totaling $135,434 and was returned to the grantor three to six years from the end of the awarded grant periods. The other refund totaling $133,872 was returned to the grantor one to two years after the refunds were received by the Department from sub-grantees. Department management stated there is no current Department policy or wording in the award documents that set forth the timeframe to refund unspent grant funds to the grantor.

- The Department's Grant Tracker available on the Department's website did not have accurate information on the amount of grants paid to certain grantees. Auditors noted the total amount of disbursements or payments on 4 grants had exceeded the total award amount by $504,025 in the Grant Tracker. Further verification showed the information on the Grant Tracker did not correctly capture other transactions that were related to the disbursements, such as adjustments to account for program income and refunds. Department management stated the Grant Tracker application was launched in 2011 by prior administration without proper quality control procedures that might have revealed the 'Amount Disbursed/Award Amount mismatch' issue.

Updated Response: Accepted and Partially Implemented. The Department remains committed to a progressive approach to grant management by observing and implementing national trends and methods. Consequently, DCEO continues to proactively modify and enhance its policies and procedures regarding grant administration and monitoring. In addition, the leadership of each program office has been directed to adhere to and enforce the provisions of the grant agreements and required staff training as necessary.

2. Ensure compliance with the requirements in approval and administering loans and equity funding under the Small Business Development Act.

Finding: The Department did not comply with certain provisions of the Small Business Development Act (Act) with regards to the approval and administration of a direct loan and use of an equity intermediary.

The Department entered into a loan agreement on July 29, 2013 to help finance the Borrower's general working capital needs. The loan amount is $150,000 with an interest rate of 2% per annum and a maturity date of July 29, 2021. During testing of the application and approval processing of the loan, the auditors noted the following:

- The Department has no security interest or personal guarantee on this loan. The Department waived the longstanding standard practice of obtaining from the borrower their personal guarantee on the loan while acknowledging the borrower's unusual debt structure where the only third party investment in the borrower after year 2017 is the Department's loan.

- The Department also waived their standard objective of the number of jobs to be created or retained under this loan program by the borrower, allowing the borrower to meet a reduced jobs retained/created requirement.

During testing of the borrower's compliance with significant covenants of the loan agreement, auditors noted the following:

- As of June 30, 2014, the Borrower had not complied with all the post-closing conditions of the loan agreement which was due on January 29, 2014 to provide the Department with satisfactory documentation that the borrower has raised additional equity. The borrower had only provided documentation to support raising $100,000 of the required $150,000 additional equity set forth in the loan agreement. The auditors initially inquired of the Department about the borrower's compliance with the post-closing condition on July 11, 2014. On August 19, 2014, the Department responded that the loan agreement had been amended. The amendment to the loan agreement and promissory note was entered into and signed by both parties on July 21, 2014, 10 days after the auditors' initial inquiry. One of the amended terms was the post-closing condition which the borrower had not complied with as of February

Accepted or Implemented – continued

2015.

- As of June 30, 2014, the borrower was 11 months in arrears on its monthly interest payment. After this was brought to the Department's attention, the Department worked with the Borrower to collect interest in arrears.

The above bullets would be considered default events as defined in the loan agreement. The Department was not able to provide supporting documentation to show it has taken the necessary actions to compel the borrower to cure its failure to meet the post-closing condition, or that the Department had detected and notified the borrower of its non-compliance during FY14.

During FY14, the Department entered into an Equity Intermediary Agreement in accordance with the Small Business Development Act whereby the Department will provide funding to the intermediary to purchase on behalf of the Department, equity interest in 2 small venture capital businesses. The operating agreements between the Department and the 2 small venture capital businesses were executed November 11, 2013 and December 3, 2013, respectively, for a total investment of $201,747.

During testing, auditors noted the Financial Review Committee (FRC) reviewed and recommended to the Director, at its meeting held on November 18, 2013, to approve the equity intermediary application of the Intermediary. The Director's approval of this application is evidenced by the Commitment Letter issued to the Intermediary dated November 22, 2013. The operating agreement on November 11, 2013 was executed through the Intermediary whose application had not been reviewed and approved by the Department at the time the operating agreement was executed. Wording within the November 11, 2013 operating agreement sets forth it constitutes the legal, valid and binding obligation of the member (Department) in accordance with its terms.

Department management stated the waiver to require security on the loan and achieve the number of jobs created or retained was based on the Department's assessment that the terms and conditions of the loan agreement were satisfactory to secure payments. The Department's communication with the Borrower regarding compliance with additional equity by January 2014 was made verbally. The interest in arrears was due to a good faith misunderstanding between parties. The operating agreement to invest in a venture capital business that was executed prior to the approval of the Intermediary was a result of the nature of the projects which have to be made in a very short period of time. The Department's former Chief of Staff reached out informally to FRC members to apprise and seek approval to invest in the Intermediary prior to the scheduled FRC meeting.

Updated Response: Implemented. DCEO accepts the recommendation. Previous DCEO leadership did not follow internal controls in place with regard to the approval and administration of one of our direct loans. This same borrower is also not in compliance with several terms and conditions of their Loan Agreement and related documents resulting in an Event of Default. DCEO has taken initial steps to immediately accelerate the repayment of the loan in full. The current DCEO leadership will ensure that DCEO continues to follow internal controls already in place, and will continue to comply with the requirements of the Small Business Development Act.

3. Allocate sufficient staff to the Office of Internal Audit to complete internal audits of the major systems of internal accounting and administrative controls such that internal audits are conducted on a periodic basis so all major systems are reviewed at least once every two years as required by the FCIAA. (Repeated-2012)

Finding: The Department's internal auditing program did not fully comply with the Fiscal Control and Internal Auditing Act (Act).

The Department's Office of Internal Audit (OIA) did not conduct and complete any audits of the Department's major systems of internal accounting and administrative controls and did not conduct reviews of the design of major new electronic data processing systems and major modifications to existing systems prior to their installation to ensure these systems provide for adequate audit trails and accountability for the last four fiscal years.

Department management stated the noncompliance with the Act is due to staffing limitations within the OIA which imposed significant scope limitations on the OIA to meet its statutory obligations as described in the Act. In the last four fiscal years, the OIA consisted of only the Chief Internal Auditor.

Updated Response: Accepted. The Department recognizes this potential internal control deficiency and has taken appropriate actions to staff the Office of Internal Audit. The Director has identified recruitment and hiring of a Chief Internal Auditor as a top priority of the agency. A job posting was performed as recently as February 2015, with only two applicants responding, neither of which qualified for the position of Chief Internal Auditor. Another potential candidate was interviewed for this position in April 2015, but did not meet the certification requirements for the position. DCEO management continues to solicit potential applicants from within and outside of state government hoping to find a qualified candidate in the near future.

4. Enhance monitoring procedures to ensure submission or timely submission of required reports to the Governor and General Assembly. (Repeated-2010)

Finding: The Department did not submit or timely submit required reports in accordance with the mandates set forth in the State Law as follows:

- The Department did not submit a report on its evaluation of the effectiveness of the tax credit program to the Governor and the General Assembly as required by the Economic Development for a Growing Economy (EDGE) Tax Credit Act. The last

Accepted or Implemented – continued

evaluation report submitted by the Department was on November 1, 2005. The Department made the decision that the EDGE Annual Report, which is submitted to the Governor and the leaders in the Senate and House on or before July 1 each year, would be sufficient to fulfill this requirement. The auditors noted the EDGE Annual Report for calendar year 2012, which was submitted on June 6, 2013, included a summary of jobs created and potential capital investment of each program, however, the report did not discuss the Department's assessment of the effectiveness in creating new jobs in Illinois and the revenue impact of the program.

Department management stated they had already submitted the 2012 EDGE Annual Report to the Governor and General Assembly by the time a corrective action plan was developed to address the lack of inclusion of an assessment of the effectiveness in creating new jobs in Illinois and of the revenue impact of the program. The corrective action plan will be implemented such that the required information will be included in the report to be submitted in Fiscal Year 2015.

- The Department did not timely submit the report on energy efficiency programs to the Governor and General Assembly for Fiscal Years 2013 and 2012 as required by the Energy Conservation Act. These reports were filed 88 and 11 days after they were due.
- The Department did not timely submit the Large Business Attraction Fund Report to the Governor and General Assembly for Fiscal Years 2012 and 2013 as required by the Large Business Development Act. The reports were filed 28 and 9 days after they were due.
- The Department did not timely submit the reports evaluating the effectiveness of the River Edge Redevelopment Zone Act to the Governor and General Assembly during fiscal years 2013 and 2014. The reports were submitted 63 and 22 days after they were due.
- The Department prepared an Energy Contingency Plan (Plan), however they did not submit the Plan to the Governor and General Assembly nor did they inform the Governor and General Assembly that such Plan had been prepared for their consideration.

Department management stated the failure to file or timely file certain required reports was due to a mixture of staffing limitations, turnover, limited procedures to assure compliance, and oversight. The Department also stated the electronic tracking system for required reports was negatively impacted by a software upgrade that directly affected its ability to send automatic emails to management to remind them of upcoming report deadlines.

<u>Updated Response</u>: Implemented. The Department recognizes the importance of timely reporting and has taken great strides to ensure compliance. DCEO has an established SharePoint tracking database which effectively monitors the applicability and progress of every mandated report with a notification module for the responsible staff. The Department is monitoring the tracking database more frequently to test for functionality. Also, during this audit period, there were instances of technological upgrades which unknowingly prevented the automated notifications from properly alerting staff to upcoming report due dates resulting in a negative impact on timeliness of filings. Additionally, certain program areas were hindered by staffing resource limitations and turnover of individuals responsible for reporting.

5. Continue to formally communicate to the required appointing entity or person the need to fill the vacancies to comply with the required membership in the mandated Boards, Committees, and Councils and Working Group. Also, form the Digital Divide Elimination Working Group as required by the Eliminate the Digital Divide Law or seek a legislative remedy to the statutory requirement. (Repeated-2012)

<u>Finding</u>: The Department did not ensure that certain Boards, Committees, Councils, or Working Groups mandated to provide guidance to the Department had the required number of members.

During testing of statutes applicable to the Department requiring various boards, committees and councils, and working group, the auditors noted the following:

- The Illinois Steel Development Board has never met due to lack of appointments.
- The 21st Century Workforce Development Fund Advisory Committee did not have the required number of members.
- The Illinois Workforce Investment Board did not have the required number of members.
- The Digital Divide Elimination Advisory Committee has one vacant position to be appointed by the House Minority Leader. This position has been vacant since February 2014.
- The Digital Divide Elimination Working Group has not been active since 2007.

Department management stated the appointment and approval of members of the mandated Boards, Committees and Council is the responsibility mainly of the Governor's Office of Boards and Commissions (GOBC). The Department has no control over official appointments to the Board, Committees and Council or when membership is approved. The Department submits recommendations for new members to GOBC. Once the recommendation is made, responsibility falls solely under the GOBC to ensure the vetting and approval processes are completed. Failure to organize the Digital Divide Elimination

Accepted or Implemented – continued

Working Group was due to a lack of resources.

__Updated Response__: Accepted. The Department continues to work with the Governor's Office, Illinois Legislature, and other shareholders, as applicable, regarding the staffing or establishment of required Boards and Commissions. Documented staffing requests are being made and some recent progress in the initiative has been noted. DCEO maintains an on-going process of reviewing requirements of certain staffing mandates and seeks legislative remedy when deemed appropriate and necessary.

6. Allocate resources to comply with statutory requirements or seek a legislative remedy as appropriate. (Repeated-2012)

__Finding:__ The Department did not comply with various statutory mandates. During testing, auditors noted the following:

- The Department did not establish a comprehensive community economic development project to provide technical assistance to communities for purposes specified in the Small Business Development Act.

Department management stated they submitted a legislative proposal to repeal the mandate to establish a comprehensive community economic development project as the Department did not have the resources to carry out the project and the project is duplicative of other programs. The Department's proposal was not included in the final enacted version.

- The Department's Film Production Services Tax Credit quarterly and annual reports were prepared using projections and budgets. Actual information subsequently becomes available to the Department from the final tax credit documents submitted by accredited film productions. The initial submitted reports are not updated to reflect actual information that is required by the Film Production Tax Credit Act.

Department management indicated they did not provide certain information in the reports since such information only becomes available upon the accredited film production's submission of final documentation for the tax credit, which they are allowed to submit two years after the completion of the production. However, Department management noted they did not compile and report on the information that has become available from the final tax credit documents submitted by the accredited film productions in fiscal years 2013 and 2014 because not all final tax documents were submitted, as many were still pending.

- The Department received an appropriation under the Alternate Fuels Act, however, the Department did not administer the Clean Fuel Education Program in Fiscal Year 2013 and 2014, as required by statute.

Department management noted they did not administer the Clean Fuel Education Program because the staff member who had long been managing all of the Department's alternative fuels programs left the Department. The Department was not able to bring in a replacement until the very end of fiscal year 2014, so for the duration where the Department had limited staff time available to devote to the entire portfolio of alternative fuels work, the Department prioritized administering the mandated grant programs under the Alternate Fuels Act.

Failure to administer the Clean Fuels Education Program limits the ability of the State to educate the citizens of Illinois on the benefits of using alternate fuels as a means to improve air quality.

- The Department did not comply with the requirements of the State Construction Minority and Female Building Trades Act. The Department did not identify construction projects that are funded by the State or the American Recovery and Reinvestment Act, equal to or greater than $5,000,000 in total value, located in specified areas of the State.

Department management stated the provisions of the State Construction Minority and Female Building Trades Act has not been feasible to implement due to: 1) the scope of the mandate includes identifying construction projects beyond the Department's purview; 2) the mandate was created as part of the 2010 Budget Implementation (Capital) Act with no operational funding appropriated for the Department to implement the Act; 3) the Act does not provide clear responsibilities for the Department once construction projects are designated by the Department.

Updated Response: Accepted and Partially Implemented. In response to this finding, the Department modified the format and content of the Film Production Services Tax Credit report to comply with the informational requirements of the Act. DCEO has also taken steps to allocate resources to re-implement the Clean Fuel Education Program by December 2015. Additionally, the DCEO Legislative Office is pursuing changes to statutory requirements for mandates that are no longer relevant or feasible as currently enacted.

7. Allocate sufficient staffing resources to timely act upon applications received on tax exemption. Also, promulgate rules and regulations regarding payment of taxes, penalties and interest by business enterprises granted exemption in case of noncompliance with the Retailers' Occupation Tax Act.

Finding: The Department did not comply with certain requirements of the Retailer's Occupation Tax Act. During testing, auditors noted the following exceptions:

- The Department did not timely act upon the applications for eligibility for retailer's occupation tax exemption by business enterprises. Four of six applications for eligibility for exemption on retailer occupation tax tested were not approved within 60 days from receipt of the applications. The applications were approved 139 to 429 days after the applications were received.

Accepted or Implemented – continued

- The Department has not promulgated rules and regulations to carry out the provisions and to require that any business enterprise that is granted a tax exemption pay the exempted tax to the Department of Revenue if the business enterprise fails to comply with the terms and conditions of the certification, and pay all penalties and interest on that exempted tax as determined by the Department of Revenue.

Department management stated the Department did not have staff resources to timely approve and adequately monitor compliance with the statutory requirement.

Response: Accepted. The Department will adhere to the timelines for acting on applications submitted pursuant to 35 ILCS 120/1f and will promulgate rules and regulations regarding payment of taxes, penalties and interest by business enterprises granted exemption in case of noncompliance with the Retailer's Occupation Tax Act (35 ILCS 120/1k). No business has been certified pursuant to 35 ILCS 120/1k.

Updated Response: Accepted and Partially Implemented. The Department agrees with the recommendation and has drafted repayment rules which are currently being reviewed by legal personnel. Once approved, they will be promulgated and adhered to by both the applicants and DCEO staff. Currently, DCEO is investigating the reallocation of staff to perform more timely application review and tracking.

8. Allocate adequate resources to comply with the requirements set forth in the Public Utilities Act. Further, establish and implement guidelines to monitor Exempt Customers in compliance with the Public Utilities Act.

Finding: The Department did not comply with certain provisions of the Public Utilities Act (Act) and administrative rules. During testing, auditors noted the following:

- The Department did not approve applications for utility tax exemptions within 90 days of receipt of the applications. Two of 5 applications were approved 129 and 132 days after they were received.

- The Department approved the renewal application of 2 certified businesses even though they did not submit an annual audited financial statement which is one of the requirements. The Department approved an exemption to the utility tax for these businesses for an additional five-year period.

- All three Self-Directing Customers (SDCs) did not timely submit their annual reports and there was no documentation to show that the Department followed up on the late filings. The annual reports were submitted 2 to 363 days after they were due. In addition, upon review of the annual reports submitted by the SDCs, the auditors noted 2 of 3 annual reports did not contain all statutorily required information.

- The Department did not have specific rules or guidelines to monitor Exempt Customers to ensure their continued compliance with statutory requirements.

Department management stated the Department did not have staff resources to timely approve and adequately monitor compliance with the statutory requirements.

Updated Response: Accepted and Partially Implemented. The Department has addressed with staff the need for timely application reviews and approvals. Additionally, procedures have been revised to ensure only audited financial statements are accepted with the applications. Self-Directing Customer reporting templates and guidelines will be designed by August 2015 and available to interested parties by September 2015. The Department will review and monitor energy savings and requirements reported.

9. Re-evaluate interagency agreements to determine an appropriate allocation of the cost related to the employees' shared services between the agencies, or document the reason why the employees' shared services are only being paid by one of the agencies. Also, ensure all interagency agreements are signed by all parties prior to the effective date.

Finding: Auditors identified exceptions at the Department while testing interagency agreements and noted the following:

- Three of eight interagency agreements tested pertain to the sharing of services of certain employees between the Department and other State agencies. The employees worked on activities for both parties, however, the cost or expenditures related to the employees' services are not shared or allocated between the parties. One of the three referenced agreements was between the Department of Central Management Services (CMS) and the Department wherein the employee's full salary, including benefits, were paid by CMS. Two of the referenced agreements were between the Office of the Governor and the Department wherein the employees' full salaries, including benefits, were paid by the Department. In addition, it was also noted that in certain months an employee covered by one of the interagency agreements with the Office of the Governor failed to submit timesheets to the Department.

- Two of eight interagency agreements tested were not signed by all parties prior to the effective date. The agreements were signed 17 and 72 days after the effective dates of the agreements.

Department management stated the interagency agreements established the purpose of an understanding between or among agencies and the means of salary payment which is efficient and effective, as agreed upon by the agencies' directors. Also, while an employee's services may be shared by more than one agency, splitting the cost of the employee's salary is administratively burdensome. The failure to submit timesheets timely were due to oversight.

Accepted or Implemented – concluded

<u>Updated Response</u>: Implemented. The Department has reinforced with staff the need to execute contracts and agreements prior to the effective date. Additionally, DCEO will continue to ensure all contracts and agreements are in compliance with applicable laws.

10. Remind supervisors of the requirements for completing employee performance evaluations and develop a process to monitor and ensure that employee performance evaluations are timely completed. (Repeated-2006)

<u>Finding</u>: The Department did not perform annual employee performance evaluations for all employees, and did not perform certain employee performance evaluations on a timely basis. During testing of employee files for performance evaluations, the auditors noted the following:

- Four of 53 employees tested did not have performance evaluations completed, 1 for FY13 and 3 for FY14.
- One of 53 performance evaluations was not completed for an employee after the probationary period.
- Twelve of 53 employees' annual performance evaluations were completed 5 to 220 days after they were due.

Department management stated due to competing priorities, some supervisors failed to conduct and submit performance evaluations as required.

<u>Updated Response</u>: Implemented. The Department has recommended that all supervisory staff attend Performance Evaluation Training as offered by CMS. Additionally, the DCEO Office of Human Resources has enhanced their performance evaluation tracking procedures to further assist supervisors in identifying and meeting submission due dates.

11. Document compliance with the Project Labor Agreements Act.

<u>Finding:</u> The Department did not ensure compliance with the Application Guidelines of Illinois Next Generation Biofuel Production Program and the requirements of the Project Labor Agreements Act.

The Department determined a provision requiring a project labor agreement should have been included in Illinois Next Generation Biofuel Production Program Grants. However, the Department did not include the provision regarding project labor agreement requirements on three grant agreements totalling $7.25 million signed under the Illinois Next Generation Biofuel Production Program.

Department management stated the failure to include the project labor agreement provisions on the grant agreements was due to omission as a result of significant turnover of personnel responsible for the program.

Updated Response: Implemented. The Department has developed language that will be inserted in future grant agreements where the Project Labor Agreements Act is applicable. Staff have been trained in the Act's purpose and relevance to the program. Existing agreements identified during this audit have been modified to include the language to comply with the Act.

Emergency Purchases

The Illinois Procurement Code (30 ILCS 500/) states, "It is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts...." The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State Property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however that the term of the emergency purchase shall not exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to the execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony.

Notice of all emergency procurement shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing.

A chief procurement officer making such emergency purchases is required to file an affidavit with the Procurement Policy Board and the Auditor General. The affidavit is to set forth the circumstance requiring the emergency purchase. The Legislative Audit Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

During FY13, the Department filed two affidavits for emergency purchases totaling $184,500.00 for program evaluation required for federal projects. There were no affidavits for emergency purchases filed in FY14.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Department of Commerce and Economic Opportunity indicated as of July 15, 2014 that 54 employees had headquarters designated at a location other than that at which their duties require them to spend the largest part of their working time.