



STATE OF ILLINOIS

OFFICE OF THE AUDITOR GENERAL

**PERFORMANCE AUDIT OF THE
ECONOMIC DEVELOPMENT FOR A
GROWING ECONOMY (EDGE)
TAX CREDIT PROGRAM**

JUNE 2020

FRANK J. MAUTINO

AUDITOR GENERAL

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OFFICE OF THE AUDITOR GENERAL
FRANK J. MAUTINO

*To the Legislative Audit Commission, the Speaker
and Minority Leader of the House of Representatives,
the President and Minority Leader of the Senate, the
members of the General Assembly, and the Governor:*

This is our report of the program audit of the Economic Development for a Growing Economy (EDGE) tax credit program.

The audit was conducted pursuant to House of Representatives Resolution Number 381. This audit was conducted in accordance with generally accepted government auditing standards and the audit standards promulgated by the Office of the Auditor General at 74 Ill. Adm. Code 420.310.

The audit report is transmitted in conformance with Sections 3-14 and 3-15 of the Illinois State Auditing Act.

SIGNED ORIGINAL ON FILE

FRANK J. MAUTINO
Auditor General

Springfield, Illinois
June 2020



STATE OF ILLINOIS
OFFICE OF THE
AUDITOR GENERAL

Frank J. Mautino, Auditor General

REPORT DIGEST

**PERFORMANCE
AUDIT**

**Release Date:
June 2020**

**Audit performed in
accordance with
House Resolution
Number 381**

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EXECUTIVE SUMMARY

**Economic Development for a Growing Economy
(EDGE) Tax Credit Program**

On June 1, 2019, the Illinois House of Representatives adopted Resolution Number 381, which directed the Office of the Auditor General to conduct a performance audit of the Department of Commerce and Economic Opportunity's (DCEO) Economic Development for a Growing Economy (EDGE) tax credit program (see Appendix A). The audit found:

- DCEO did not maintain documentation to adequately and accurately administer the EDGE tax credit program. Auditors tested EDGE program applications approved by DCEO in 2018 and found incomplete files and missing documentation required by the EDGE Tax Credit Act (35 ILCS 10/5) (Act), Administrative Code (14 Ill. Adm. Code 527), and the EDGE tax credit program application. All 39 of the EDGE program application files tested were missing required documentation.
- DCEO did not adequately monitor the EDGE program. When requested by auditors, DCEO could not produce two necessary pieces of basic information related to the EDGE program: (1) the number of active agreements in 2017; and (2) the number of tax credits issued in 2018 (the tax credits issued in 2018 are primarily for meeting the necessary requirements in 2017).
- In addition to determining that there was not a consistent source of EDGE programmatic information at DCEO, auditors also determined that the information reported in the 2018 Annual Report was incomplete and inaccurate. The report contained information that could not be verified by any data source provided to auditors by DCEO.
- While DCEO was meeting many of the basic requirements of the EDGE Tax Credit Act, it was not in compliance with several applicable sections of the Act due to a lack of internal controls. Additionally, DCEO did not have any policy or procedure manuals to help employees administer the EDGE program. Noncompliance with the Act included missing information required by the Act, a lack of required staffing, and the use of a Business Investment Committee not consisting of the statutorily required members.
- A biennial report assessing the effectiveness of the program has been required since 1999. DCEO produced its first biennial report on October 31, 2019.
- The Act includes requirements and practices no longer used by DCEO. This includes changes related to how the tax credit amount is determined and the inclusion of copies of agreements in the EDGE Annual Report. In addition, the Act did not include specific information necessary to adequately administer the EDGE program including specific guidance on what evidence is necessary to determine proof of incentives available from other states and guidance related to residency requirements.

AUDIT SUMMARY AND RESULTS

Auditors determined that DCEO did not maintain documentation to adequately and accurately administer the EDGE tax credit program. Auditors tested EDGE program applications approved by DCEO in 2018 and found incomplete files and missing documentation required by the EDGE Tax Credit Act (35 ILCS 10/5) (Act), Administrative Code (14 Ill. Adm. Code 527), and the EDGE tax credit program application. Additionally, DCEO did not adequately monitor the EDGE tax credit program. While DCEO was meeting many of the basic requirements of the Act, it was not in compliance with several applicable sections of the Act due to a lack of internal controls. According to DCEO, it did not have any policy or procedure manuals to help employees administer the EDGE program.

On June 1, 2019, the Illinois House of Representatives adopted Resolution Number 381, which directed the Office of the Auditor General to conduct a performance audit of the Economic Development for a Growing Economy tax credit program. The Resolution contained several determinations. Our assessment of these determinations is shown in Digest Exhibit 1. (pages 2-4)

Digest Exhibit 1 ASSESSMENT OF AUDIT DETERMINATIONS	
Determination from Audit Resolution	Auditor Assessment
<i>Whether the Department is administering the EDGE program in accordance with applicable laws, rules, policies, and procedures.</i>	<ul style="list-style-type: none"> • While DCEO was meeting many of the basic requirements of the EDGE Tax Credit Act, it was not in compliance with several applicable sections of the Act due to a lack of internal controls. (page 32)
<i>Whether the Department is adequately monitoring EDGE recipients.</i>	<ul style="list-style-type: none"> • Auditors concluded information was not maintained by DCEO for use in the day-to-day operations and monitoring of the EDGE tax credit program. (page 19)
<i>Whether the Department has implemented the changes required under Public Act 100- 511.</i>	<ul style="list-style-type: none"> • DCEO updated its EDGE tax credit agreements timely after the effective date of Public Act 100-511 on September 18, 2017. (page 37)
<i>Whether the Department is regularly assessing the effectiveness of the EDGE program.</i>	<ul style="list-style-type: none"> • DCEO was not in compliance with State law and did not report on the effectiveness of the program for approximately 20 years as required. (page 33)
<i>Whether the EDGE tax incentives in Illinois are similar to programs in surrounding states.</i>	<ul style="list-style-type: none"> • Auditors determined that all of the surrounding states had a business incentive program similar to Illinois' EDGE program. (page 16)
<i>An analysis of the amount of tax credits approved and the number of jobs created or retained.</i>	<ul style="list-style-type: none"> • Due to conflicting EDGE programmatic information from multiple sources provided by DCEO, auditors were unable to conduct an analysis of the amount of tax credits approved, the number of jobs created or retained, and the total amount of capital investment. (page 29)
Source: OAG assessment of the audit determinations contained in House Resolution Number 381.	

Background

DCEO did not maintain documentation to adequately and accurately administer the EDGE tax credit program.

According to the Illinois Department of Commerce and Economic Opportunity (DCEO), the Department provides economic opportunities for businesses, entrepreneurs, and residents to improve the quality of life for Illinoisans. According to DCEO, the Economic Development for a Growing Economy (EDGE) tax credit program provides for annual tax credits to businesses to help with **job creation and capital investment to improve the standard of living for all Illinois residents**. The EDGE tax credit program is a business development investment tool used by Illinois to encourage new business development and business expansion in Illinois rather than choosing another state or country. According to DCEO’s most recent Annual Report (2018), almost \$1.5 billion in tax credits have been issued since the program began in December 1999. (page 6)

Issues with the EDGE Tax Credit Act

The EDGE Tax Credit Act (35 ILCS 10/5) includes requirements and practices no longer used by DCEO.

The EDGE Tax Credit Act (35 ILCS 10/5) (Act) includes requirements and practices no longer used by DCEO. This includes changes related to how the tax credit amount is determined and the inclusion of copies of agreements in the EDGE Annual Report. Additionally, the Act does not include specific information necessary to adequately administer the program. This includes specific guidance on what evidence is necessary to determine proof of incentives available from other states and guidance related to residency requirements. (pages 13-14)

Similar Programs in Other States

Auditors determined that all of the surrounding states had a business incentive program similar to Illinois’ EDGE program. House Resolution Number 381 asked the Auditor General to determine whether the EDGE tax incentives in Illinois are similar to programs in surrounding states. The surrounding states and programs identified consisted of the following:

- Indiana -Economic Development for a Growing Economy Tax Credit (EDGE);
 - Iowa -High Quality Jobs Program;
 - Kentucky -Kentucky Business Investment Program;
 - Missouri -Missouri Works Program; and
 - Wisconsin -Wisconsin Business Development Tax Credit Program.
- (pages 16-17)

Incomplete EDGE Program Documentation

DCEO did not maintain documentation to adequately and accurately administer the EDGE tax credit program. Auditors tested EDGE program applications approved by DCEO in 2018 and found incomplete files and missing

documentation required by the EDGE Tax Credit Act (35 ILCS 10/5), Administrative Code (14 Ill. Adm. Code 527), and the EDGE tax credit program application. All 39 of the EDGE program application files tested were missing required documentation including two program application files that were not provided by DCEO.

DCEO did not provide an application for 7 of the 39 projects (17.9%) approved in 2018. For the remaining 32 projects approved in 2018, auditors found required information to be missing. Without the required documentation, it is unclear how DCEO was able to make the appropriate eligibility decisions for the EDGE program.

Auditors found that in 4 of the 32 files tested (12.5%), the allowable tax credit percentage stated in the EDGE tax credit agreement was different than what was stated in the project application. While the application stated that the business was in an underserved area, the agreement indicated that it was not. Auditors did not find any documentation that supported this change. (pages 19-24)

EDGE Monitoring Documentation

DCEO could not provide auditors with: (1) the number of active agreements in 2017; and (2) the number of tax credits issued in 2018 (the tax credits issued in 2018 are primarily for meeting the necessary requirements in 2017).

DCEO did not adequately monitor the EDGE program. When requested by auditors, DCEO could not produce two necessary pieces of basic information related to the EDGE program. DCEO could not provide auditors with: (1) the number of active agreements in 2017; and (2) the number of tax credits issued in 2018 (the tax credits issued in 2018 are primarily for meeting the necessary requirements in 2017). A DCEO official told auditors it would require comparing the customer relationship management system with the hard copy files and with the electronic documents. The official noted this would likely take **four weeks** to complete. Therefore, auditors concluded this information was not maintained by DCEO for use in the day-to-day operations and monitoring of the EDGE tax credit program.

DCEO did not assign unique tracking numbers to each applicant. As a result, it was extremely labor intensive to match businesses between the various sources and lists of information. This was most difficult when one business had multiple projects. Therefore, we recommend that DCEO create a unique project numbering system and maintain complete and accurate programmatic documentation necessary to report on effectiveness such as jobs created or retained and the revenue impact of the program.

In addition to determining that there was not a consistent source of EDGE programmatic information at DCEO, auditors also determined that the information reported in the 2018 Annual Report was incomplete and inaccurate.

In addition to determining that there was not a consistent source of EDGE programmatic information at DCEO, auditors also determined that the information reported in the 2018 Annual Report was incomplete and inaccurate. A list of 248 tax credits awarded in 2018 was provided by DCEO; however, it did not agree with information contained in the 2018 Annual Report. The list also did not agree with a separate dataset provided from the customer relationship management system. Thus, the report contained information that could not be verified by any data source provided to auditors by DCEO.

DCEO provided businesses with a required monitoring spreadsheet to use annually to verify employment of new and retained employees that included

incorrect policy criteria and an incorrect formula. DCEO relied on the attestation from the business for the accuracy of the information submitted and **did not require proof of employment, wages, or Illinois withholding amounts.**

DCEO did not maintain all documentation required for projects awarded a tax credit. Auditors requested and DCEO was not able to provide all documentation required for monitoring the capital improvement costs and independent attestation agreements, known as “Agreed Upon Procedures” (AUP). Based on a review of the AUP’s for a sample of 50 tax credits issued in 2018, auditors found that AUP’s were missing from 6 of the 50 files tested (12%). An additional 1 of the 50 tested (2%) did not support that the required capital improvement investment was met. According to the DCEO EDGE agreement, capital improvement requirements must be met before receiving the first tax credit. In total, 7 of the 50 files tested (14%) did not support that the capital improvement costs were met. (pages 24-30)

Compliance with Laws, Rules, Policies, and Procedures

While DCEO was meeting many of the basic requirements of the EDGE Tax Credit Act, it was not in compliance with several applicable sections of the Act due to a lack of internal controls. Additionally, DCEO did not have any policy or procedure manuals to help employees administer the EDGE program. Noncompliance by DCEO was identified in several areas, which are listed below.

- **Missing application documentation** -every application file tested by auditors (39 of 39) was missing an application or was missing some required documentation.
- **Evaluating the tax credit program** -DCEO was not in compliance with State law and did not report on the effectiveness of the program for approximately 20 years as required. According to DCEO, it produced its **first** biennial report on October 31, 2019. The biennial report has been required since 1999 and is required to assess the effectiveness of the program in creating new jobs in Illinois and the revenue impact of the program.
- **Insufficient personnel** -the former Program Manager suggested that 2-3 full time staff in addition to the Program Manager position are needed to properly administer the program. The manager noted that EDGE is a huge program, and to be timely, more staff are needed.
- **Use of the Business Investment Committee** -the Committee is not made up of the statutorily required members; it is solely comprised of DCEO officials and employees. According to DCEO, there is a committee, but it has not included the members required by the Act.
- **Missing verification of prospects from other states** -the Committee is required to determine that, if not for the credit, the project would not occur in Illinois. During our review of application files, DCEO did not have verification of prospects from 37 of the 39 (95%) agreements approved during 2018.

While DCEO was meeting many of the basic requirements of the EDGE Tax Credit Act, it was not in compliance with several applicable sections of the Act due to a lack of internal controls. Additionally, DCEO did not have any policy or procedure manuals to help employees administer the EDGE program.

- **Inaccurate Annual Report** -several numbers reported in the 2018 EDGE Annual Report were not supported by DCEO.

DCEO's tax credit program did not meet time requirements identified in the EDGE agreements.

DCEO's tax credit program did not meet time requirements identified in the EDGE agreements. Our review found that businesses did not issue the required proof of compliance within the required timeframes in 33 of the 50 tax credits sampled (66%). The average number of days to submit the proof was 82 days. Our review also found that DCEO did not issue the tax credit to the businesses within the required 60 days in 20 of the 50 of the tax credits sampled (40%). The average number of days it took DCEO to issue the tax credit was 97 days. (pages 31-37)

AUDIT RECOMMENDATIONS

The audit report contains six recommendations directed to the Department of Commerce and Economic Opportunity. The Department agreed with the recommendations. The complete response from the Department is included in this report as Appendix C.

This performance audit was conducted by the staff of the Office of the Auditor General.

SIGNED ORIGINAL ON FILE

Joe Butcher
Division Director

This report is transmitted in accordance with Sections 3-14 and 3-15 of the Illinois State Auditing Act.

SIGNED ORIGINAL ON FILE

FRANK J. MAUTINO
Auditor General

FJM:SAW

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Chapter One

INTRODUCTION AND BACKGROUND

REPORT CONCLUSIONS

According to the Illinois Department of Commerce and Economic Opportunity (DCEO), the Department provides economic opportunities for businesses, entrepreneurs, and residents to improve the quality of life for Illinoisans. According to DCEO, the Economic Development for a Growing Economy (EDGE) tax credit program provides for annual tax credits to businesses to help with **job creation and capital investment to improve the standard of living for all Illinois residents**. The EDGE tax credit program is a business development investment tool used by Illinois to encourage new business development and business expansion in Illinois rather than choosing another state or country. According to DCEO's most recent Annual Report (2018), almost \$1.5 billion in tax credits have been issued since the program began in December 1999.

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EDGE Monitoring Documentation

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DCEO did not maintain all documentation required for projects awarded a tax credit. Auditors requested and DCEO was not able to provide all documentation required for monitoring the capital improvement costs and independent attestation agreements, known as “Agreed Upon Procedures” (AUP). Based on a review of the AUP’s for a sample of 50 tax credits issued in 2018, auditors found that AUP’s were missing from 6 of the 50 files tested (12%). An additional 1 of the 50 tested (2%) did not support that the required capital improvement investment was met. According to the DCEO EDGE agreement, capital improvement requirements must be met before receiving the first tax credit. In total, 7 of the 50 files tested (14%) did not support that the capital improvement costs were met.

Compliance with Laws, Rules, Policies, and Procedures

While DCEO was meeting many of the basic requirements of the EDGE Tax Credit Act, it was not in compliance with several applicable sections of the Act due to a lack of internal controls. Additionally, DCEO did not have any policy or procedure manuals to help employees administer the EDGE program. Noncompliance by DCEO was identified in several areas, which are listed below.

- **Missing application documentation** -every application file tested by auditors (39 of 39) was missing an application or was missing some required documentation.
- **Evaluating the tax credit program** -DCEO was not in compliance with State law and did not report on the effectiveness of the program for approximately 20 years as required. According to DCEO, it produced its **first** biennial report on October 31, 2019. The biennial report has been required since 1999 and is required to assess the effectiveness of the program in creating new jobs in Illinois and the revenue impact of the program.
- **Insufficient personnel** -the former Program Manager suggested that 2-3 full time staff in addition to the Program Manager position are needed to properly administer the program. The manager noted that EDGE is a huge program, and to be timely, more staff are needed.
- **Use of the Business Investment Committee** -the Committee is not made up of the statutorily required members; it is solely comprised of DCEO officials and employees. According to DCEO, there is a committee, but it has not included the members required by the Act.
- **Missing verification of prospects from other states** -the Committee is required to determine that, if not for the credit, the project would not occur in Illinois. During

our review of application files, DCEO did not have verification of prospects from 37 of the 39 (95%) agreements approved during 2018.

- **Inaccurate Annual Report** -several numbers reported in the 2018 EDGE Annual Report were not supported by DCEO.

DCEO's tax credit program did not meet time requirements identified in the EDGE agreements. Our review found that businesses did not issue the required proof of compliance within the required timeframes in 33 of the 50 tax credits sampled (66%). The average number of days to submit the proof was 82 days. Our review also found that DCEO did not issue the tax credit to the businesses within the required 60 days in 20 of the 50 of the tax credits sampled (40%). The average number of days it took DCEO to issue the tax credit was 97 days.

INTRODUCTION

On June 1, 2019, the Illinois House of Representatives adopted Resolution Number 381, which directed the Office of the Auditor General to conduct a performance audit of the Department of Commerce and Economic Opportunity's (DCEO) Economic Development for a Growing Economy (EDGE) tax credit program.

The Resolution directed that this performance audit include, but not be limited to the following determinations:

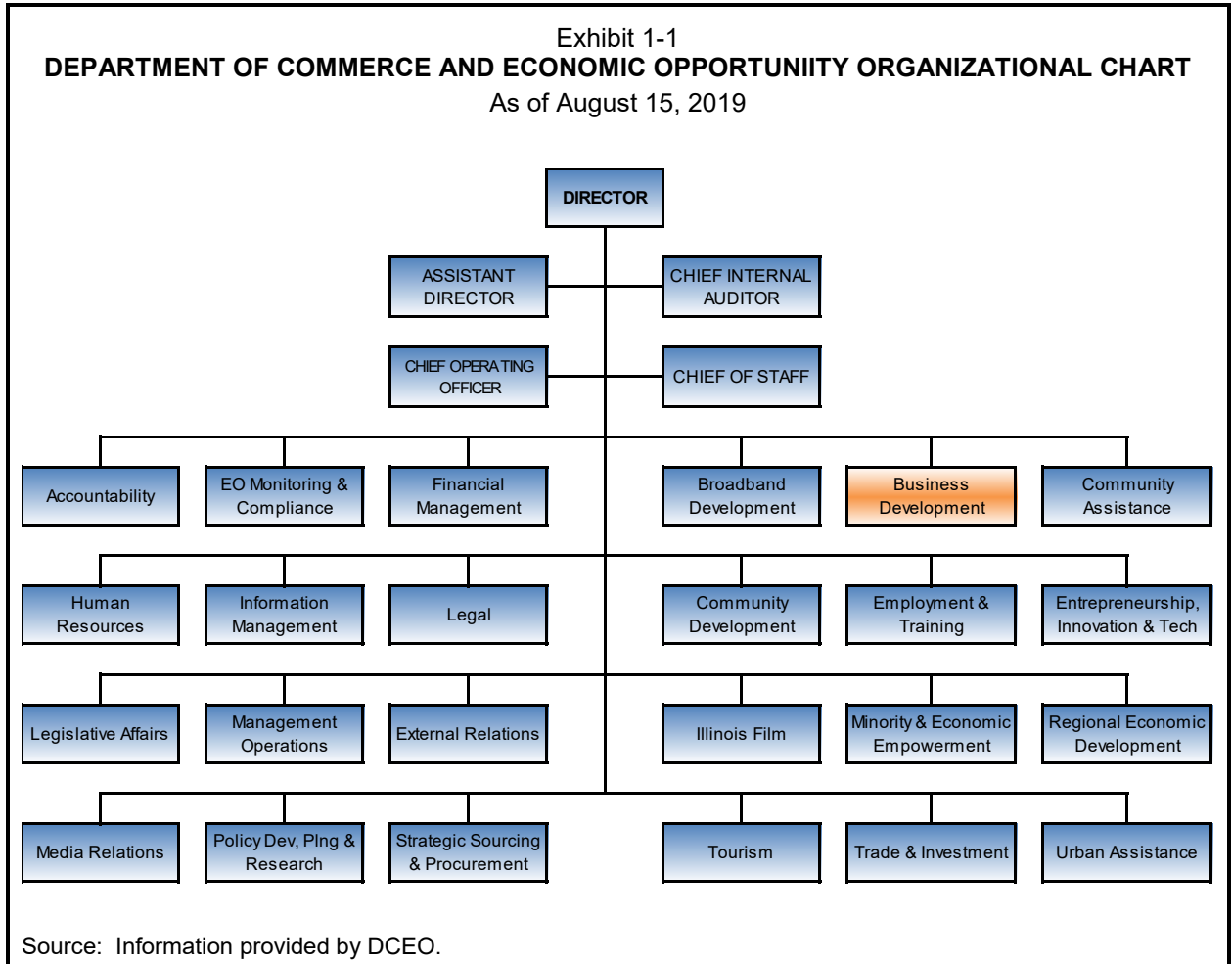
1. whether DCEO is administering the EDGE program in accordance with applicable laws, rules, policies, and procedures;
2. whether DCEO is adequately monitoring EDGE recipients;
3. whether DCEO has implemented the changes required under P.A. 100-511;
4. whether DCEO is regularly assessing the effectiveness of the EDGE program; and
5. whether the EDGE tax incentives in Illinois are similar to programs in surrounding states.

The Resolution also required the audit to include an analysis of the amount of tax credits approved and number of jobs created or retained.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

According to DCEO, the Department provides economic opportunities for businesses, entrepreneurs, and residents to improve the quality of life for Illinoisans. The mission of DCEO is to support and maintain a climate that enables a strong economy for customers (taxpayers, businesses, workers, and communities) by keeping, attracting and growing businesses, maintaining a skilled workforce, and enhancing communities, so the businesses and workers can succeed.

DCEO covers several areas including business development; community development; employment and training; entrepreneurship, innovation and technology; tourism; and trade and investment. As shown in Exhibit 1-1, the EDGE program is managed by the Office of Business Development. The EDGE program is one of several incentive programs available to businesses in Illinois. Other business development programs include Opportunity Zones, Workforce Training Assistance-Workforce Innovation Opportunity Act, High Impact Business Program, Enterprise Zones, Employer Training Investment Program, Community Development Block Grant, Advantage Illinois Participation Loan Program, and the Research and Development Tax Credit.



The EDGE program is managed by two individuals within DCEO. The EDGE program falls under the Business Development function of DCEO. The Deputy Director of the Office of Business Development and the Program Manager manage the day-to-day activities of the program along with one part-time intern. DCEO replaced the individual in the Program Manager position with a new Program Manager at the beginning of our audit in July 2019. The new Program Manager left the position in December 2019. According to DCEO officials, employees from the Office of Regional Economic Development (RED), also referred to by DCEO as Team RED, help to develop leads and ensure that all documents and paperwork are completed and received.

EDGE TAX CREDIT PROGRAM

According to DCEO, the EDGE program provides annual tax credits to businesses to help with **job creation and capital investment to improve the standard of living for all Illinois residents**. According to DCEO’s most recent Annual Report (2018), almost \$1.5 billion in tax credits have been issued since the program began in December 1999. Tax credits can be issued for up to 10 years (some older tax credits can last up to 15 years) and are calculated based on the employees’ State income tax withholding for jobs created for new projects in Illinois. According to DCEO, the tax credits are designed to help areas of Illinois that are in direct competition with other states for jobs and development. See a tax credit case example in the adjacent text box.

The EDGE tax credit program is only for certain types of businesses that plan to locate within the State of Illinois. These businesses must be engaged in interstate or intrastate commerce for the purpose of:

- manufacturing, processing, assembling, warehousing, or distributing products;
- conducting research and development;
- providing tourism services; or
- providing services in interstate commerce, office industries, or agricultural processing.

Retail, retail food, health, or professional services business types are not eligible for the EDGE tax credit program. Additionally, a business cannot close or substantially reduce an operation at one location in Illinois and relocate the same operation to another location within the State. Expanding its operation in another location within the State is allowed as long as the existing operations are not closed or substantially reduced.

Retained Employees

Throughout the existence of the EDGE tax credit program, tax credits for retained employees have been awarded as part of the program. A retained employee is an employee who was hired before the EDGE agreement date. According to DCEO officials, prior to 2015, DCEO regularly, but not always, awarded tax credit for retained employees. Usually, the tax credit for retained employees was accompanied by a requirement that the business also create new jobs, and the tax credit percentage was identified in the business’s EDGE agreement.

2018 Tax Credit Case Example

Tax credits are calculated based off the total Illinois taxes withheld from new employees for a given project and are received after the agreed upon capital investment is made by the business for the new project.

Purpose: Expansion of Headquarters which included \$58.6 million in Capital Investment.

2018 Tax Credit Information for the New Project:

- **Number of New Employees:** 617
- **New Employee Payroll:** \$37.6 Million
- **Tax Credit Percentage:** 100%
- **IL Withholding/Tax Credit:** \$1.8 Million

In 2015, the Governor announced that businesses would no longer be receiving credit for retained employees on new agreements. According to DCEO officials, DCEO continued to honor agreements already in place that provided tax credits for retained employees; however, if a business held such an agreement and sought an amendment, it was generally required to waive the right to any tax credit for retained employees.

When passed in September 2017, Public Act 100-511 expressly provided DCEO with the authority to award tax credit for retained employees at a rate of 25 percent of withholding based on certain statutorily required evidence. The prior EDGE Act did not grant such authority to DCEO. According to DCEO officials, as of August 2019, DCEO leadership decided to “allow credits for retained employees if the project is located in an underserved area and the required statutory showing is made.”

Recent Changes to the EDGE Tax Credit Program

The original 1999 EDGE tax credit legislation expired on April 30, 2017. As a result, there was no EDGE tax credit program to attract new business projects in Illinois from May 1, 2017, until Public Act 100-511 was signed, effective September 18, 2017. As shown in Exhibit 1-2, with the new Public Act, several changes regarding eligibility were established.

Public Act 100-511 reduced the capital investment requirement for applicant projects to zero (\$0) for businesses employing 100 or fewer employees and from \$5 million to \$2.5 million for businesses with more than 100 employees. The Act also limits the amount of tax credit available to participating businesses to the lesser of 100 percent of the incremental income tax attributable to new employees, or the sum of 50 percent of the incremental income tax (75 percent, if the project is in an underserved area) plus 10 percent of new employee training costs.

2019 New Job Cap

According to a DCEO official, prior to August 2019, businesses could have tax credits for additional qualifying jobs above what was stated in the agreements. For example, the signed agreement could have been for 25 new jobs; however, if the business created an additional 100 jobs, a tax credit for all 125 was allowed. However, in August of 2019, the new Director of DCEO and the Governor’s Office approved a cap of two times the number of new jobs outlined in the agreement. Therefore, new agreements entered into after August 2019 have a cap stipulated in the terms. According to a DCEO official, if a business creates jobs in excess of its cap amount, the business would be required to amend its agreement with DCEO if it wants to increase the total amount of tax credit it receives.

Exhibit 1-2 LEGISLATIVE CHANGES TO THE EDGE TAX CREDIT ACT		
	Agreements on or Before April 30, 2017	Agreements Beginning September 18, 2017
Companies with: <u>100 OR MORE EMPLOYEES</u>	25 new full-time employees and \$5 million capital investment or 50 new full-time employees and \$2.5 million capital investment. ¹	New full-time employees equal to 10% of full-time world-wide employees at the company or 50 new full-time employees and \$2.5 million capital investment.
Companies with: <u>LESS THAN 100 EMPLOYEES</u>	5 new full-time employees and \$1 million capital investment.	New full-time employees equal to 5% of full-time world-wide employees at the company or 50 new full-time employees.
Projects in: <u>UNDERSERVED AREAS</u>	May not need to meet the requisite amount of jobs or capital investment if certain conditions are met.	Same number of jobs created and capital investment requirements as seen above and the tax credit percentage becomes equal to the lesser of: the sum of 75% of incremental income tax attributable to new employees and 10% of training costs or 100% of incremental income tax attributable to new employees.
<p>Note: ¹ These terms did not appear specifically in either statute or Administrative Code; however, the former section of the Act (35 ILCS 10/5-20(b)(2)) gave DCEO broad authority to specify alternative terms of an agreement.</p> <p>Source: OAG summary of the EDGE Tax Credit Program Act.</p>		

Criteria for EDGE Agreements

In order to be eligible to receive an EDGE agreement, businesses may request consideration for their project by formal written letter of request or by formal application to DCEO. The agreements are required to contain specific information about the proposed project. Specifically, Section 5-50 of the Act, effective September 18, 2017, states that the following information must be included in the agreement:

1. A detailed description of the project, which includes the location, the amount of the investment, and the jobs to be created or retained;
2. The duration of the tax credit and the first year that the tax credit may be claimed;

3. The amount of the tax credit for each taxable year;
4. A requirement that the business shall maintain operations at the location for a minimum number of years, not to exceed 10;
5. A specific method for determining the number of new employees employed during a taxable year;
6. A requirement that the business shall annually report the number of new employees, the incremental income tax withheld for the new employees, and any other information the Director of DCEO needs to perform the duties under the Act;
7. A requirement that the Director of DCEO is authorized to verify with the appropriate State agencies the incremental income tax withheld for the new employees, and after doing so shall issue a certificate to the business stating that the amounts have been verified;
8. A requirement that the business shall provide written notification not more than 30 days after the business makes or receives a proposal that would transfer the business's State tax liability obligations to another successor taxpayer;
9. A detailed description of the number of new employees to be hired, and the occupation and payroll of the full-time jobs to be created or retained as a result of the project;
10. The minimum investment the business enterprise will make in capital improvements, the time period for placing the property in service, and the designated location in Illinois for the investment;
11. A requirement that the business provide written notification to the Director of DCEO and the Business Investment Committee not more than 30 days after the business determines that the minimum job creation or retention, employment payroll, or investment no longer is being or will be achieved or maintained;
12. A provision that, if the total number of new employees falls below a specified level, the allowance of credit shall be suspended until the number of new employees equals or exceeds the amount in the agreement;
13. A detailed description of the items for which the costs incurred by the business will be included in the limitation on the credit (see Section 5-30 of the Act);
14. A provision that, if the business never meets either the investment or job creation or retention requirement during the 5-year period beginning on the first day of the first taxable year in which the agreement is executed and ending on the last day of the fifth taxable year after the agreement is executed, then the agreement is automatically terminated and the business is not entitled to the award of any tax credits for any of the 5-year period;
15. A provision that if the business ceases principal operations with the intent to shut down the project, the entire tax credit amount awarded prior to the date the business ceases principal operations shall be returned to DCEO; and
16. Any other conditions or contract provisions as DCEO determines are appropriate.

Internal Audit of EDGE Program

Prior to the adoption of House Resolution Number 381 in June 2019, an internal audit by DCEO covering January 1, 2016 through July 31, 2018, was completed in May 2019. The review identified four findings related to the EDGE program, and DCEO management agreed with all of the findings. The four findings included:

1. **Limited staffing, inadequate technology solutions, and reliance on manual, time consuming processes** lead to insufficient resources and inefficient deployment causing ineffective monitoring and the inability to fully implement programmatic and strategic goals;
2. **A lack of internal controls** could have caused tax credits to be awarded and applications to be approved without strict compliance with statutory and Administrative Code provisions;
3. Due to **incomplete documentation**, it could not be determined whether all tax credits were awarded properly; and
4. **A lack of policy and procedure manuals** as well as a lack of adequate backup roles for EDGE functions.

EDGE TAX CREDIT ACT (35 ILCS 10/5)

The EDGE tax credit program is a business development investment tool used by Illinois to encourage new business development and business expansion in Illinois rather than choosing another state or country. The Act provides the legal requirements for the EDGE tax credit program.

The Act gives DCEO the authority to administer the program, including but not limited to the ability to create rules and procedures, assist applicants, enter into agreements with applicants, negotiate the terms of agreements, determine fees, and protect the State's interest.

DCEO and businesses enter into agreements, and approved applicants are granted a tax credit against or a payment towards taxes imposed for the approved taxable years. The purpose of the tax credit is to foster job creation and retention in Illinois.

To qualify for a tax credit under the Act, an applicant's project must involve capital improvements and create new jobs. Exhibit 1-3 shows the capital improvement and employment requirements as described in the Act.

Exhibit 1-3 EDGE PROGRAM JOB CREATION AND CAPITAL IMPROVEMENT REQUIREMENTS As of September 18, 2017	
Applicants with More than 100 World-Wide Employees	Applicants with Less than 100 World-Wide Employees
Capital Improvement of at least <u>\$2.5 million</u>	Capital Improvement of <u>\$0</u>
Number of New Employees must be the lesser of: <ul style="list-style-type: none"> • 10% of the world-wide workforce or • 50 new employees 	Number of New Employees must be the lesser of: <ul style="list-style-type: none"> • 5% of the world-wide workforce or • 50 new employees
Source: OAG summary of the EDGE Tax Credit Program Act.	

The Act establishes a Business Investment Committee (Committee) from the Illinois Economic Development Board (this Board was repealed by Public Act 100-621 on July 20, 2018). The Committee is to make inquiries, conduct studies, and make recommendations for whether an applicant’s project should or should not be accepted. The Act specifically states that the Committee may be comprised of the Director of DCEO or designee, the Director of the Governor’s Office of Management and Budget or designee, the Director of Revenue or designee, the Director of the Department of Employment Security or designee, and “an elected official of the affected locality, such as the chair of the county board or the mayor.”

In reviewing an applicant’s project, based on the Act, the Committee determines:

- whether the project meets the capital investment and employment requirements;
- whether the project is economically sound and will benefit the State;
- if not for the tax credit, the project would not occur in Illinois;
- whether a cost differential is identified in the projected costs of the project compared to the costs in the competing state;
- whether the political subdivisions affected by the project have committed local incentives;
- whether awarding the credit will result in an overall positive fiscal impact on the State; and
- if the tax credit is not prohibited by Section 5-35 of the Act, which states that jobs cannot be relocated within the State for the new project.

In determining the amount of the tax credit, Section 5-40 of the Act states the Committee should provide guidance on, and DCEO should take into consideration, the following:

- the number and location of jobs created and retained in relation to the economy of the county where the projected investment is to occur;
- the potential impact on the economy of Illinois;
- the magnitude of the cost differential between Illinois and the competing state;

- the incremental payroll attributable to the project;
- the capital investment attributable to the project;
- the amount of the average wage and benefits paid by the applicant in relation to the wage and benefits of the area of the project;
- the cost to Illinois and the affected political subdivisions with respect to the project; and
- the financial assistance that is otherwise provided by Illinois and the affected political subdivisions.

The tax credit may not exceed 10 taxable years; however, the credit may be applied against State income liability in more than 10 taxable years but not more than 15 taxable years. According to DCEO officials, some older tax credit agreements could have lasted up to 15 years instead of 10 years.

As listed in the previous section, the Act specifies 16 requirements to be included in the agreement between DCEO and the applicant. In addition, the business must provide an annual report containing supplier diversity goals and a report detailing the applicant's sexual harassment policy.

The Committee is required to provide a report annually to DCEO, the Governor, and to the General Assembly on the EDGE tax credit program. The Act requires the annual report to be provided on or before July 1, and it is to include the number of agreements entered into during the calendar year, a description of the project, an update on the status of the projects previously under way, and the sum of the credits awarded under the Act. According to the Act, for each agreement, the annual report must include:

1. The original estimates of the value of the credit and the number of new jobs to be created or retained jobs if applicable;
2. Any relevant modifications to the existing agreements;
3. A statement of progress made by each business in meeting the terms of the agreement;
4. A statement of wages paid to new employees and, if applicable, retained employees;
5. Information related to supplier diversity goals; and
6. A copy of the original agreement.

In addition to the annual report, DCEO is required to biennially evaluate the tax credit program and provide a report on the evaluation to the Governor and the General Assembly in odd-numbered years.

Issues with the EDGE Tax Credit Act

The Act includes requirements and practices no longer used by DCEO. This includes changes related to how the tax credit amount is determined and the inclusion of copies of agreements in the EDGE Annual Report. These two areas are described below.

The Amount of the Tax Credit -Section 5-40 of the Act, effective August 11, 1999, is titled “Determination of Amount of the Credit” and gives criteria to consider in determining the amount of the credit to be awarded, such as the potential impact on the economy of Illinois and the capital investment attributable to the project. These factors do not influence the amount of the tax credit, since the tax credit is determined by a set percentage found in Section 5-5 of the Act. According to DCEO officials, the formulas delineated in Section 5-5 *Definitions* are used to calculate the tax credit amounts for businesses with EDGE agreements and not the criteria found in Section 5-40.

Annual Report -Section 5-70(6) of the Act requires the EDGE Annual Reports to include copies of the original agreements. This currently is not being done by DCEO. Due to the number and length of these agreements, it is not feasible for DCEO to include them in its Annual Report. However, although not included in its Annual Report, DCEO does post each of the agreements to its website.

EDGE PROGRAM ACT MODIFICATIONS	
RECOMMENDATION NUMBER 1	<i>The Illinois Department of Commerce and Economic Opportunity should work with the General Assembly to enact necessary changes to sections of the Economic Development for a Growing Economy Tax Credit Act (35 ILCS 10/) and the Administrative Code (14 Ill. Adm. Code 527) that are either no longer valid or are not feasible.</i>
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY RESPONSE	<p>The Department agrees with Recommendation No. 1. The Department specifically agrees with each of the three (3) recommended changes identified by the OAG:</p> <ul style="list-style-type: none"> • All references to the Illinois Economic Development Board and the Business Investment Committee of that board in should be stricken, as the Illinois Economic Development Board was repealed subsequent to passage of the current EDGE Act. As neither that Board or the Committee has been active, the Department created a Business Development Committee internally to review and approve or deny EDGE applications. That committee is staffed by the Department’s: Assistant Director; Deputy Director, Business Development; Assistant Deputy Director, Business Development; General Counsel; Deputy Director, Regional Economic Development Team (“Team RED”); Chief Risk Officer; EDGE Program Manager; and various members of the Business Development bureau and Team RED when those individuals have business before the committee. The recommendations of the Department’s Business Development committee are subject to the review and approval of the Director. The Department also
Continued on next page	

	<p>works closely with officials of local communities impacted by companies seeking assistance through the EDGE program. As noted by the OAG, the Department has continued to also perform the defunct Business Investment Committee’s obligation to file annual reports with the Governor and the General Assembly.</p> <ul style="list-style-type: none"> • Section 5-40, titled “Determination of Amount of the Credit”, should also be revised in light of the formulaic method for calculating the EDGE credit set forth in the current EDGE Act. While the factors in that section are no longer relevant for purposes of determining the amount of the credit, the Department’s Business Development Committee considers these factors in determining whether to award an EDGE agreement to an applicant business. • The requirement in Section 5-70(6) of the EDGE Act that the annual report should include copies of original EDGE agreements should also be stricken. In or about early 2016, the Department began posting all EDGE agreements on its website, which is now a requirement of the current EDGE Act. Given the number of agreements entered into each year and the length of each of those agreements, including each agreement in the annual report would render it unwieldy. In lieu of including those agreements in the annual report, the annual report incorporates by reference those agreements which are included on the Department’s website. (2018 Economic Development for a Growing Economy Tax Credit Program Annual Report, page 10, note 1.) <p>The Department looks forward to working with the General Assembly on the above recommendations as well as other opportunities for improving the operations and effectiveness of the EDGE program.</p>
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In addition, the Act does not include specific information necessary to adequately administer the program. This includes specific guidance on what evidence is necessary to determine proof of incentives available from other states and guidance related to residency requirements. Auditors reviewed the Act and determined the following deficiencies.

Evidence of Other State Offers or Considerations -the Act does not provide clear guidance on what evidence, if any, is required as evidence of other state business incentive offers or proof that the business is actually considering another state for the project. The *Review of the Application* sections of the Act (Sections 5-25(b)(3) and (4)) discuss evidence that the credit is essential and the cost differential between Illinois and a competing state. However, the language in the Act is unclear what evidence, if any, is necessary or required.

Residency -the Act does not discuss whether the businesses with the new projects are required to hire Illinois residents or whether residents from surrounding states qualify toward the new employee count. According to DCEO, the tax credits are to support **job creation, capital investment and improve the standard of living for all Illinois residents**, thus implying that Illinois residents are to be the beneficiary of these jobs created by the EDGE tax credits. Further, the Act does not state that Illinois residents must be hired, but it discusses hiring “the required

number of New employees in Illinois” and notes the project shall be “**economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and strengthen the economy of Illinois.**”

EDGE PROGRAM ACT ELIGIBILITY CRITERIA	
<p>RECOMMENDATION NUMBER</p> <p>2</p>	<p><i>The Illinois Department of Commerce and Economic Opportunity should seek clarification from the General Assembly related to specific guidance on what evidence is necessary to determine proof of incentives available from other states and guidance related to residency requirements for the EDGE Tax Credit Program.</i></p>
<p>DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY RESPONSE</p>	<p>The Department agrees with Recommendation No. 2.</p> <p><i>Evidence of other state offers or considerations.</i> As the Department understands it, certain of the changes made by the General Assembly to Section 5-25(b) of the EDGE Act in 2017 were meant to clarify that an EDGE applicant need not contact a competing state in order to qualify for an EDGE agreement. In practice, the Department requires EDGE applicants to provide a certified statement that the credit is essential to the applicant’s decision to move forward with the project (a representation repeated in the EDGE agreement) and provide a detailed explanation (with a supporting cost differential) demonstrating that the project would likely be more economical outside Illinois. Pursuant to Section 5- 25(b)(3) and the definition of the term “Credit” under the EDGE Act, applicants seeking credit for retained employees must provide internal company memoranda, third party analysis, or an offer from a competing state to qualify for the retained credit. The Department is happy to work with the General Assembly to develop any statutory or rule amendments necessary to codify this practice or otherwise clearly implement the legislative intent.</p> <p><i>Residency.</i> There is no requirement in the EDGE Act that new employees, retained employees or employees that constitute baseline employment be Illinois residents. Historically, the Department did not require companies to report the residency of employees for whom a credit is sought, either in terms of achieving employment thresholds or calculating the total amount of the EDGE tax credit. In or about 2017, the Department implemented a payroll reporting template which requires companies seeking a credit to identify the state residency of each of the employees being claimed for purposes of satisfying employment thresholds or calculating the total amount of the EDGE credit. The vast majority of such employees are Illinois residents, and the issues usually only arises in border communities where non-residents may easily travel to the business location. The Department only allows non-residents working at the specific project site to be counted where: (a) the employee pays Illinois withholding taxes or (b) the employee resides in a state with reciprocity and thus has no Illinois withholding taxes (which means the company may count the individual toward job creation, retention or baseline targets but there is no</p>
<p>Continued on next page</p>	

	<p>monetary benefit in terms of a credit amount related to the employee). Business Development staff have regular interaction with companies seeking a credit to confirm that any non-residents claimed satisfy the departmental requirements noted above as well as the other provisions of the EDGE Act. The Department’s policies in this regard are meant to recognize that allowing companies to account for a few non-residents does not undermine the overall benefits to Illinois and its residents from the development.</p> <p>The Department is happy to work with the General Assembly to develop any statutory or rule amendments necessary to codify this practice or otherwise clearly implement the legislative intent.</p>
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SIMILAR PROGRAMS IN OTHER STATES

Auditors determined that all of the surrounding states had a business incentive program similar to Illinois’ EDGE program. House Resolution Number 381 asked the Auditor General to determine whether the EDGE tax incentives in Illinois are similar to programs in surrounding states. Auditors used the literal definition of surrounding states for the methodology. Annual reports completed by DCEO and economic development agency webpages from other states were used to gather information. The surrounding states and programs identified consisted of the following:

- Indiana -Economic Development for a Growing Economy Tax Credit (EDGE);
- Iowa -High Quality Jobs Program;
- Kentucky -Kentucky Business Investment Program;
- Missouri -Missouri Works Program; and
- Wisconsin -Wisconsin Business Development Tax Credit Program.

Initially, auditors developed a survey for use in capturing information from the other states. A call was placed to introduce our project to the other state officials, and a request was made to complete the survey. Although the other states were agreeable to the survey, only one state completed it and sent it back. Multiple attempts were made by the audit team to contact these other states without any success.

As a result, auditors reviewed information from business incentive program websites for each of the states listed above. There were similarities between the surrounding state programs and the Illinois EDGE program. Similarities between the state programs identified include:

- a main purpose is to promote job creation by incentivizing businesses to create jobs in their respective states;
- each state has a capital investment requirement; and

- none of the states allow retail as an eligible business type.

Some of the other states had differences when compared to Illinois’ EDGE program. For example, Missouri only allowed the benefit to be used for five years for outside companies and six years for companies with existing operations in Missouri. Illinois allowed companies to use the benefit for ten years. Another difference is Iowa did not require a certain amount of jobs to be created. Illinois required that a certain number of jobs be created depending on the company size. See Exhibit 1-4 for a summary of general requirements for business tax programs in Illinois and surrounding states.

Exhibit 1-4 ILLINOIS AND SURROUNDING STATE EDGE PROGRAMS¹ General Requirements for Business Tax Incentive Programs			
State and Program	Minimum Capital Improvement	Minimum New Jobs	Number of Years
Illinois EDGE Tax Credit	\$0 or \$2.5 million dependent on business size	at least 5% of worldwide workforce	10 years
Indiana EDGE Tax Credit	capital improvement amount varies	must net new jobs at the project location	Up to 10 years
Iowa High Quality Jobs Program	capital improvement amount varies	no minimum	5 years
Kentucky Kentucky Business Investment Program	at least \$100,000	at least 10	Up to 15 years
Missouri Missouri Works Program	\$0 or \$100,000 dependent on project location	at least 2	Up to 6 years
Wisconsin Wisconsin Business Development Tax Credit	lesser of \$1 million or \$10,000 per employee	business must increase net employees each year	10 years
<p>Note: These are generalized requirements. Each program has several variables and options too numerous and complex to incorporate in a single exhibit.</p> <p>Source: OAG analysis of state program information.</p>			

Chapter Two

INCOMPLETE EDGE PROGRAM DOCUMENTATION

CHAPTER CONCLUSIONS

The Illinois Department of Commerce and Economic Opportunity (DCEO) did not maintain documentation to adequately and accurately administer the EDGE tax credit program. Additionally, DCEO did not have the necessary policy or procedure manuals to guide employees through the EDGE application and monitoring processes. DCEO also did not have the necessary internal controls in place for management to ensure that basic information necessary to monitor the EDGE program and documentation required by statute related to the application process was received and maintained as required.

Auditors tested EDGE program applications approved by DCEO in 2018 and found incomplete files and missing documentation required by the EDGE Tax Credit Act (35 ILCS 10/5) (Act), Administrative Code (14 Ill. Adm. Code 527), and the EDGE tax credit program application. All 39 of the EDGE program application files tested were missing required documentation, including two program application files that were not provided by DCEO.

DCEO did not provide an application for 7 of the 39 projects (17.9%) approved in 2018. For the remaining 32 projects approved in 2018, auditors found required information to be missing. Without the required documentation, it is unclear how DCEO was able to make the appropriate eligibility decisions for the EDGE program.

Auditors also found that in 4 of the 32 files tested (12.5%) for which an application was provided, the allowable tax credit percentage stated in the EDGE tax credit agreement was incorrect as the project application stated the project was in an underserved area. Therefore, the allowable tax credit percentage should have been 75 percent of the incremental income tax instead of 50 percent.

DCEO did not adequately monitor the EDGE program. When requested by auditors, DCEO could not produce two necessary pieces of basic information related to the EDGE program: (1) the number of active agreements in 2017; and (2) the number of tax credits issued in 2018 (the tax credits issued in 2018 are primarily for meeting the necessary requirements in 2017). A DCEO official told auditors it would require comparing the customer relationship management system with the hard copy files and with the electronic documents. The official noted this would likely take **four weeks** to complete. Therefore, auditors concluded this information was not maintained by DCEO for use in the day-to-day operations and monitoring of the EDGE tax credit program.

DCEO did not assign unique tracking numbers to each project. As a result, it was extremely labor intensive to match businesses between the various sources and lists of information. This was most difficult when one business had multiple projects. Therefore, we

recommend that DCEO create a unique project numbering system and maintain complete and accurate programmatic documentation necessary to report on effectiveness such as jobs created or retained and the revenue impact of the program.

In addition to determining that there was not a consistent source of EDGE programmatic information at DCEO, auditors also determined that the information reported in the 2018 Annual Report was incomplete and inaccurate. A list of 248 tax credits awarded in 2018 was provided by DCEO; however, it did not agree with information contained in the 2018 Annual Report. The list also did not agree with a separate dataset provided from the customer relationship management system. Thus, the report contained information that could not be verified by any data source provided to auditors by DCEO.

DCEO provided businesses with a required monitoring spreadsheet to use annually to verify employment of new and retained employees that included incorrect policy criteria and an incorrect formula. DCEO relied on the attestation from the business for the accuracy of the information submitted and **did not require proof of employment, wages, or Illinois withholding amounts.**

DCEO did not maintain all documentation required for projects awarded a tax credit. Auditors requested and DCEO was not able to provide all documentation required for monitoring the capital improvement costs and independent attestation agreements, known as “Agreed Upon Procedures” (AUP). Based on a review of the AUP’s for a sample of 50 tax credits issued in 2018, auditors found that AUP’s were missing from 6 of the 50 files tested (12%). An additional 1 of the 50 tested (2%) did not support that the required capital improvement investment was met. According to the DCEO EDGE agreement, capital improvement requirements must be met before receiving the first tax credit. In total, 7 of the 50 files tested (14%) did not support that the capital improvement costs were met.

SOURCES OF INCOMPLETE DOCUMENTATION

DCEO did not maintain documentation to adequately and accurately administer the EDGE program. Additionally, DCEO did not have the necessary policy or procedure manuals to guide employees through the EDGE application and monitoring processes. DCEO also did not have the necessary internal controls in place for management to ensure that basic information necessary to monitor the EDGE program and documentation required by statute related to the application process was being received and maintained as required. The following sections describe issues with the EDGE application documentation and with EDGE program monitoring.

EDGE Application Documentation

Auditors tested EDGE program applications approved by DCEO in 2018 and found incomplete files and missing documentation required by the EDGE Tax Credit Act (35 ILCS 10/5) (Act), Administrative Code (14 Ill. Adm. Code 527), and the EDGE tax credit program application. All 39 of the EDGE program application files tested were missing required documentation, including two program application files that were not provided by DCEO.

The Act, Administrative Code, and application include requirements for the application process, approval, and the EDGE tax credit agreement. According to the 2018 EDGE tax credit program Annual Report, 39 projects were approved for the EDGE program in 2018. Auditors requested documentation for these 39 applications to test compliance with the Act, Administrative Code, and EDGE application. According to DCEO officials, the applications were available in hard copy files, but in some instances, applicant file documentation was available electronically.

Missing Applications and Files

Auditors reviewed the available hard copy files for the 39 applications approved in 2018. The hard copy files included the application and several other required documents necessary to determine eligibility for the EDGE program. DCEO did not provide an application for 7 of the 39 projects (17.9%) as seen below.

- 5 of the 39 projects (12.8%) did not have an application in the hard copy file, and the application was not available electronically. The files included other documents, and auditors reviewed and collected as much information as possible from the other documents in the files.
- 1 of the 39 projects (2.6%) did not have a hard copy file; however, DCEO was able to provide some of the required documents electronically.
- 1 of the 39 projects (2.6%) did not have a hard copy file or any electronic documentation.

Because these files were incomplete, auditors could not determine whether some of the criteria tested was met. Additionally, auditors could not ensure that the correct eligibility determination was made.

Project File Testing

For the remaining 32 projects approved in 2018 for which an application file was provided, auditors found information required by the Act, Administrative Code, and/or the application to be missing. All 32 of the application files were missing at least one piece of required information. Exhibit 2-1 shows the results for the criteria tested for the remaining 32 projects approved in 2018.

As shown in Exhibit 2-1, more than 65 percent of the 32 application files tested were missing at least one of the following:

- evidence that if not for the credit, the project would not occur in Illinois; and
- a description of the capital investment attributable to the project.

Exhibit 2-1 SUMMARY OF REQUIRED INFORMATION MISSING FOR THE EDGE TAX CREDIT PROGRAM 32 Projects with Applications and Hard Copy Files Approved in Calendar Year 2018			
Criteria Tested	Missing Document?		Percentage of Missing Documents
	Yes	No	
Evidence that if not for the Credit, the Project would not occur in IL	30	2	93.8%
Description of Capital Investment	21	11	65.6%
Project File Checklist	15	17	46.9%
Documentation supporting variances in the Capital Investment	10	22	31.3%
ITR-1 Request for Tax Clearance	8	24	25.0%
Evidence of Committee Approval	6	26	18.8%
Total Project Costs	6	26	18.8%
Financial Statements	5	27	15.6%
Certificate of Good Standing	5	27	15.6%
Financial Analysis	5	27	15.6%
Incentive Letter Summary	4	28	12.5%
Tax Credit Percentage Met Criteria	4	28	12.5%
Organizational Chart	4	28	12.5%
Occupations and Payroll in the Agreement	3	29	9.4%
Cost Differential	3	29	9.4%
Approval Letter	3	29	9.4%
Occupations	2	30	6.3%
Proposed Payroll	1	31	3.1%
<p>Note: Auditors tested numerous criteria required by the Act, Administrative Code, and EDGE application. This chart includes tested items for which the criteria was not met.</p> <p>Source: OAG analysis of DCEO documentation.</p>			

Tax Credit for Projects in Underserved Areas

One of the changes to the Act as a result of Public Act 100-511 was a credit allowance of 75 percent of the incremental income tax attributable to new employees at the applicant’s project, if the project is in an underserved area. For projects not in an underserved area, the credit amount is 50 percent of the incremental income tax attributable to new employees at the applicant’s project. The EDGE program application asks the applicant if the new project is in an underserved area, as defined below:

- the area has a poverty rate of at least 20 percent according to the latest federal decennial census;
- 75 percent or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education;
- at least 20 percent of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

- the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120 percent of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least two (2) consecutive calendar years preceding the date of the application.

Auditors found that in 4 of the 32 files tested (12.5%), the allowable tax credit percentage stated in the EDGE tax credit agreement was different than what was stated in the project application. While the application stated that the business was in an underserved area, the agreement indicated that it was not. Auditors did not find any documentation that supported this change.

Retained Employees

According to DCEO officials, as of August 2019, DCEO leadership decided to “allow credits for retained employees if the project is located in an underserved area and the required statutory showing is made.” For the 39 projects approved in 2018, auditors found DCEO only entered into EDGE tax credit agreements for new jobs and did not find that DCEO entered into agreements for retained jobs.

Legal Due Diligence

When an application is received, a member of the DCEO legal staff completes a legal due diligence review to ensure the business and legal applicants are not currently or have not in the past been involved in criminal proceedings. If the business or legal applicants are found to be the subject of criminal proceedings, the business will not be considered to receive the EDGE tax credit. DCEO did not provide evidence of legal due diligence reviews for 2 of the 39 (5.1%) application files tested.

Conclusion

Auditors were unable to find an example of a project from 2018 that was not missing at least one piece of required documentation. Auditors followed up with DCEO officials regarding the issues found during application testing. Auditors provided application testing results on October 28, 2019, and asked for a response by November 15, 2019. On November 15, 2019, DCEO provided evidence of completed background checks only. On January 30, 2020, auditors again provided the same testing results due to staffing changes at DCEO. DCEO officials did not respond to the application testing results until March 11, 2020.

It appears that a lack of internal controls, lack of program staff, the loss of staff with institutional knowledge of the program, and a lack of policies and procedures for the EDGE program were the cause of the lack of complete application documentation. Without the required documentation, it is unclear how DCEO was able to make the appropriate eligibility decisions for the EDGE program.

EDGE PROGRAM APPLICATION DOCUMENTATION	
RECOMMENDATION NUMBER 3	<p><i>The Illinois Department of Commerce and Economic Opportunity should develop internal controls, hire adequate staff, and develop policies and procedures to ensure that it receives and maintains all application documentation required by the Economic Development for a Growing Economy Tax Credit Act (35 ILCS 10/) and the Administrative Code (14 Ill. Adm. Code 527).</i></p>
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY RESPONSE	<p>The Department agrees with Recommendation No. 3. In response to the internal audit of the EDGE program concluded in 2019, the Department has drafted a voluminous and detailed policies and procedures manual. As noted above, the Department is also actively working to hire a new program manager and supporting staff for the EDGE program as well as identify a replacement CRM software to improve information collection and data analysis. Due to staffing turnover and other bandwidth constraints, these policies have not yet been fully implemented. Beginning in 2017, the Department began digitizing the EDGE program files which previously were maintained in hardcopy form and will continue to develop that process.</p> <p><i>Required proof of employment, wages and withholding.</i> The OAG audit raised certain issues with respect to required proof of employment, wages and withholding. Section 5-55 of the EDGE Act requires that a company seeking a credit “provide proof as required by the Department.” As previously noted, in or about 2017, the Department implemented a payroll reporting template requiring companies to submit detailed information as to each employee in more than ten (10) categories include, title, residency, hire date, wages and withholding. This payroll is accompanied by a signed certification from the company and, in the case of the first credit, an agreed upon procedures report from a third-party accountant. In the event it is determined by the General Assembly that additional proof is needed, the Department welcomes the opportunity to develop potential statutory or rule amendments.</p>

EDGE Monitoring Documentation

DCEO did not maintain an accurate list of active EDGE agreements or the number of tax credits awarded. When requested by auditors, **DCEO could not produce two necessary pieces of basic information related to the EDGE program: (1) the number of active agreements in 2017; and (2) the number of tax credits issued in 2018 (the tax credits issued in 2018 are primarily for meeting the necessary requirements in 2017).** A DCEO official told auditors it would require comparing the customer relationship management system with the hard copy files and with the electronic documents. The customer relationship management system is a repository of EDGE program information that is updated manually by DCEO program staff. The official noted this would likely take four weeks to complete. Therefore, auditors concluded this

information was not maintained by DCEO for use in the day-to-day operations and monitoring of the EDGE tax credit program.

Auditors reviewed the various files and determined that DCEO did not assign unique tracking numbers to each project. As a result, it was extremely labor intensive to match a business between the various sources and lists of information. This was most difficult when one business had multiple projects. Therefore, we recommend that DCEO create a unique project numbering system and maintain complete and accurate programmatic documentation necessary to report on effectiveness such as jobs created or retained and the revenue impact of the program.

On September 26, 2019, auditors sent DCEO officials an email outlining difficulties they were having understanding and reconciling the various sources of information provided by DCEO. Specifically, auditors identified 11 instances where the customer relationship management system indicated that credits were lost (not awarded) in 2017 to businesses, but auditors found copies of the awarded tax certificates in the electronic monitoring files provided by DCEO. Thus, the customer relationship management system was not a complete and accurate tracking mechanism for tax credits received and lost. Auditors also identified several businesses in the 2018 Annual Report that had inaccurate reporting of whether they received or lost the 2017 tax credit. This was determined by comparing the Annual Report with the electronic monitoring files.

DCEO responded to auditors' concerns in two emails. The first was sent on September 26, 2019, and stated:

Thanks for your email, there is a lot here. It also confirms some of the concerns I have heard in my 4 or 5 months in BD [Business Development] regarding the CRM. [Customer Relationship Management system]

The second email was sent on October 10, 2019. It noted:

We have been working on the matter, but with the loss of institutional knowledge and the folks that prepared the reports and underlying data we have not yet gotten answers to all of your questions.

Since auditors did not receive a response from DCEO regarding their specific concerns, auditors met with DCEO officials on October 28, 2019, to discuss application testing results and other issues. During the meeting, DCEO officials indicated that it would likely take four weeks to provide (1) the number of active agreements and (2) the number of tax credits (certificates) issued in 2018. The number of tax credits issued in 2018 was reported in the 2018 EDGE Annual Report that was issued on July 1, 2019. The number listed in the report was 248.

Auditors requested an additional meeting with DCEO. On November 4, 2019, a DCEO official indicated he experienced similar issues with obtaining different numbers from different sources of information and not knowing which was correct. This confirmed that information maintained by DCEO was not accurate, dependable, or usable.

From these reviews and meetings with DCEO officials, auditors determined that DCEO did not have a complete source of information to use to monitor agreements and tax credit approvals and denials. As a result, auditors could not obtain accurate EDGE program information related to the amount of tax credits approved, the number of new jobs created or jobs retained, and the total amount of capital investment.

DCEO's statement that it would likely take four weeks to identify the population necessary to audit the EDGE program solidified this position. Based on other information received, auditors were not confident that DCEO would be able to provide a complete source of information that would be accurate, dependable, and usable. As a result, auditors determined that the necessary information did not exist. Therefore, auditors decided to proceed with answering the determinations from House Resolution Number 381 as best as possible without having the population of active agreements and number and amount of tax credits approved during 2018.

From these reviews and meetings with DCEO officials, auditors determined that DCEO did not have a complete source of information to use to monitor agreements and tax credit approvals and denials.
DCEO's statement that it would likely take four weeks to identify the population necessary to audit the EDGE program solidified this position.

Since the population of active agreements and number and amount of tax credits approved during 2018 could not be provided, auditors used 248 tax credits awarded in 2018 for the population as it was what was reported by DCEO in its 2018 Annual Report. Auditors conducted limited testing on the monitoring efforts by DCEO on the 248 even though auditors determined that the 248 was not a complete listing and would not accurately allow auditors to project any appropriate conclusions about the EDGE program.

Auditors compared the 248 tax credits, which were provided on a list by DCEO and were reported in the 2018 Annual Report, with the EDGE agreement inventory and with an additional dataset provided by DCEO of all tax credits from the customer relationship management system awarded in 2018 that totaled 243. After attempting to identify whether the 248 or the 243 were an accurate population, auditors determined that there were various inconsistencies between these two populations when compared to each other. Additionally, there were inconsistencies when auditors attempted to verify these potential population numbers with other sources of information provided by DCEO, namely the customer relationship management system data, the data in the agreement inventory, the information in the 2018 Annual Report, and the electronic monitoring files maintained by DCEO. Auditors found the following:

- there were 12 of the 248 businesses that received tax credits in 2018 that were not listed on DCEO's agreement inventory;
- there were 17 businesses with tax credits reported in the 248 that were not in the 243;
- conversely, there were 12 businesses with tax credits reported in the 243 that were not listed in the 248;
- a comparison between the 248 and the 243 identified a total of 260 separate tax credits awarded in 2018;

- there were 17 of the 248 businesses that had tax credits that did not have copies of the actual 2017 tax certificates in the electronic files; and
- there were 11 tax credits totaling \$7.4 million found in the electronic files for 2017, where there was no evidence of the tax credit being awarded in the customer relationship management system.

2018 Annual Report

Auditors also found that the 2018 EDGE Annual Report contained information that was not verified by any data source provided to them by DCEO. In addition to determining that there was not a consistent source of EDGE programmatic information at DCEO, auditors also determined that the information reported in the 2018 Annual Report was incomplete and inaccurate. Specifically, auditors found:

- there were 37 of the 248 businesses that received a tax credit that were not listed in the detailed listing of businesses reported in the 2018 Annual Report as receiving a tax credit;
- there were 9 businesses listed in the 2018 Annual Report as receiving a tax credit in 2017 that were not listed as receiving a tax credit in 2017 in the list of 248 provided by DCEO; and
- while DCEO reported 248 businesses as receiving a tax credit in 2018, the Annual Report’s detailed summary by business name and year only listed 185 of those businesses received a tax credit.

Biennial Report

Although DCEO could not provide auditors with adequate and accurate programmatic documentation, according to DCEO, it produced its **first** biennial report on October 31, 2019. The biennial report has been required since 1999 and is required to assess the effectiveness of the program in creating new jobs in Illinois and of the revenue impact of the program. As a result, DCEO was not in compliance with State law and did not report on the effectiveness of the program for approximately 20 years as required. This has been a finding by the Auditor General in past Compliance Examinations.

Datasets and other documentation provided by DCEO:

- **DCEO Annual Report**
-the Annual Report stated there were **248** tax credits awarded in 2018; however, the Annual Report’s detailed summary showed only **185** of those **248** businesses received a tax credit.
- **List of Tax Credits to Support Annual Report**
-DCEO provided a list of **248** credits awarded in 2018 to support the number reported in the Annual Report; this list did not agree with the detailed summary in the Annual Report.
- **Customer Relationship Management System Data**
-a repository of EDGE program information that is updated manually by DCEO staff. A dataset was provided by DCEO that showed **243** tax credits awarded in 2018.
- **EDGE Agreement Inventory**
-a spreadsheet of all EDGE agreements.
- **Electronic Monitoring Files**
-electronic EDGE tax credit project files maintained by DCEO for each individual program application.

Verification of Employment

A DCEO spreadsheet that businesses were required to use included incorrect policy criteria and an incorrect formula. In order to receive a tax credit for a taxable year, DCEO required businesses to submit a spreadsheet that included the employee names, project location, state of residence, W-2 wages, and Illinois withholdings for the new and retained employees for whom the business was requesting a tax credit. According to the Administrative Code (14 Ill. Adm. Code 527.90), the businesses were required to submit the employee information on forms provided by the Department. DCEO relied on the attestation from the business for the accuracy of the information submitted and did not require proof of employment, wages, or Illinois withholding amounts.

The spreadsheet the businesses were required to use was titled, “EDGE Schedule D Payroll & Training Reporting Supplement.” This DCEO spreadsheet included criteria for Qualified Payroll Withholding. Although the spreadsheet was the required reporting document for businesses to use, the criteria listed on it were incorrect. Auditors identified issues with the spreadsheet as described below.

- One requirement included on the spreadsheet stated that retained employees must be hired before the EDGE agreement date. According to DCEO officials, businesses had always been allowed to substitute new employees to maintain and meet the retained job numbers from the business’s EDGE agreement, which contradicted the requirement stated on the spreadsheet.
- Another requirement included on the spreadsheet stated only employees which are Illinois residents and pay Illinois personal income tax are included in the EDGE credit calculation, which is the calculation used for determining the tax credit benefit. According to DCEO officials, this statement was also incorrect. Border state employees had reciprocity, so if an employee lived in a border state and paid Illinois withholding, then the employee would have been counted toward the business’ job total and the employee’s withholding amount would have counted toward the business’ tax credit.
- The spreadsheet contained a formula to calculate the Qualified Payroll Withholding based upon the criteria listed on the form, which DCEO officials stated was incorrect due to iterations of the form and policy changes over time. Because the formula was incorrect, it excluded the withholdings of out of state residents, even if they paid Illinois withholding, and it excluded the withholdings of retained employees with hire dates after the agreement date. According to DCEO officials, DCEO staff had to manually calculate the Qualified Payroll Withholding and did not use the calculated field because officials did not trust that the formula was accurate.

Missing Lease Agreements/Building Contracts and Agreed Upon Procedures

DCEO did not maintain all documentation required for projects awarded a tax credit. Auditors requested and DCEO was not able to provide all documentation required for monitoring the capital improvement costs and independent attestation agreements, known as “Agreed Upon

Procedures” (AUP). An Agreed Upon Procedures engagement is one in which a practitioner is engaged by a client to issue a report of findings based on specific procedures performed on a subject matter. In an Agreed Upon Procedures engagement the practitioner does not perform an examination or review and does not provide an opinion or negative assurance.

According to the Administrative Code (14 Ill. Adm. Code 527.90), the businesses shall provide, for land and/or building acquisition, a copy of the purchase agreement; for building construction or renovation, a contractor’s or architect’s cost certification; and for space rental, a rental/lease agreement. These requirements were reiterated within a business’s agreement with DCEO. EDGE Agreement Section IV (J) titled “Reporting” noted the business shall provide the Department with copies of any and all:

1. executed agreements for the purchase of land and/or buildings, for building construction or renovation, and for rental or lease of any real property; and
2. the business’s certification of project costs incurred with respect to the project.

From the list of 248 agreements with tax credits issued in 2018 provided by DCEO, auditors selected a sample of 50. Of the 50 tax credits sampled, 49 or 98 percent did not have the applicable land and/or building purchase agreements or certifications or lease agreements in the monitoring file as required by the Administrative Code. Additionally, although not specifically required, the files did not include any other type of documentation that supported expenditures for equipment and furnishings.

In addition, documentation of capital improvement costs was required by the EDGE agreements. Businesses were required to provide DCEO with proof of their capital improvements, including, but not limited to, a certified attestation by the business, payroll records, and an attestation engagement performed by an independent licensed certified public accounting firm (EDGE Agreement Section VI (A) (2)).

Based on a review of the AUP’s for the sample of 50 tax credits issued in 2018, auditors found that AUP’s were missing from 6 of the 50 files tested (12%). An additional 1 of the 50 AUP’s tested (2%) did not support that the required capital improvement investment was met. According to the DCEO EDGE agreement, capital improvement requirements must be met before receiving the first tax credit. In total, 7 of the 50 files tested (14%) did not support that the capital improvement costs were met.

Conclusion

House Resolution Number 381 required the performance audit of the EDGE program to include **an analysis of the amount of tax credits approved and the number of jobs created or retained**. Due to conflicting EDGE programmatic information from multiple sources provided by DCEO, auditors were unable to accurately conduct an analysis of the amount of tax credits approved, the number of jobs created or retained, and the total amount of capital investment. Therefore, an analysis of the EDGE program data is not included within this audit report.

It appears that a lack of internal controls, lack of program staff, the loss of staff with institutional knowledge of the program, and a lack of policies and procedures for the EDGE

program were the cause of the lack of complete and accurate monitoring documentation. Without the required documentation, it is unclear how DCEO was able to monitor EDGE program recipients to ensure they were meeting their required program goals.

EDGE PROGRAM MONITORING DOCUMENTATION	
RECOMMENDATION NUMBER 4	<i>The Illinois Department of Commerce and Economic Opportunity should develop internal controls, hire adequate staff, and develop policies and procedures necessary to reconcile its EDGE program monitoring documentation sources and generate an accurate listing of active EDGE agreements and tax credits issued. Additionally, DCEO should create a unique project numbering system and maintain complete and accurate programmatic documentation necessary to report on effectiveness such as jobs created or retained and the revenue impact of the program.</i>
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY RESPONSE	The Department agrees with Recommendation No. 4. In response to the internal audit of the EDGE program concluded in 2019, the Department has drafted a voluminous and detailed policies and procedures manual. As noted above, the Department is also actively working to hire a new program manager and supporting staff for the EDGE program as well as identify a replacement CRM software to improve information collection and data analysis necessary for monitoring the program. Due to staffing turnover and other bandwidth challenges these policies have not yet been fully implemented. The OAG audit repeatedly notes that Department staff indicated it would take several weeks to collect certain information requested by the OAG. The Department believes this was due to the relative inexperience of the then-program manager and the Department is committed to hiring a new program manager and taking action to replace its current CRM system. The Department further believes that these contemplated actions and implementing the other recommendations from the OAG and internal audit teams will greatly enhance the Department’s ability to effectively monitor the EDGE program.

Chapter Three

COMPLIANCE WITH LAWS, RULES, POLICIES, AND PROCEDURES

CHAPTER CONCLUSIONS

While the Department of Commerce and Economic Opportunity (DCEO) was meeting many of the basic requirements of the EDGE Tax Credit Act (Act), it was not in compliance with several applicable sections of the Act due to a lack of internal controls. Additionally, DCEO did not have any policy or procedure manuals to help employees administer the EDGE program. Noncompliance by DCEO was identified in several areas, which are listed below.

- **Missing application documentation** -every application file tested by auditors (39 of 39) was missing an application or was missing some required documentation.
- **Evaluating the tax credit program** -DCEO was not in compliance with State law and did not report on the effectiveness of the program for approximately 20 years as required. According to DCEO, it produced its **first** biennial report on October 31, 2019. The biennial report has been required since 1999 and is required to assess the effectiveness of the program in creating new jobs in Illinois and the revenue impact of the program.
- **Insufficient personnel** -the former Program Manager suggested that 2-3 full-time staff in addition to the Program Manager position are needed to properly administer the program. The manager noted that EDGE is a huge program, and to be timely, more staff are needed.
- **Use of the Business Investment Committee** -the Committee is not made up of the statutorily required members; it is solely comprised of DCEO officials and employees. According to DCEO, there is a committee, but it has not included the members required by the Act.
- **Missing verification of prospects from other states** -the Committee is required to determine that, if not for the credit, the project would not occur in Illinois. During our review of application files, DCEO did not have verification of prospects from 37 of the 39 (95%) agreements approved during 2018.
- **Inaccurate Annual Report** -several numbers reported in the 2018 EDGE Annual Report were not supported by DCEO.

DCEO's tax credit program did not meet time requirements identified in the EDGE agreements. Our review found that businesses did not submit the required proof of compliance within the required timeframes in 33 of the 50 tax credits sampled (66%). The average number of days to submit the proof was 82 days. Our review also found that DCEO did not issue the tax credit to the businesses within the required 60 days in 20 of the 50 of the tax credits sampled (40%). The average number of days it took DCEO to issue the tax credit was 97 days.

COMPLIANCE WITH APPLICABLE REQUIREMENTS

While DCEO was meeting many of the basic requirements of the EDGE Tax Credit Act, it was not in compliance with several applicable sections of the Act due to a lack of internal controls. This includes noncompliance in areas related to: missing application documentation; evaluating the tax credit program; insufficient personnel; use of the Business Investment Committee; inaccurate annual report; and missing verifications for prospects in other states.

In addition, DCEO did not have any policy and procedure manuals to help employees administer the EDGE program. The only criteria for monitoring compliance with the EDGE agreements were instructions listed on the bottom of the "EDGE Schedule D Payroll & Training Reporting Supplement" that was used by businesses to support the payroll for both new and retained jobs. Auditors also determined that DCEO was not timely in issuing tax credits to Illinois businesses.

Missing Application Documentation

As discussed in Chapter Two and Recommendation Three, auditors determined that DCEO did not have the necessary internal controls in place for management to ensure that basic information required by statute related to the application process was being received and maintained as required. Every application file tested by auditors (39 of 39) was missing an application or was missing some required documentation. Auditors were unable to find an example of a project that was not missing at least one piece of documentation. Auditors followed up with DCEO officials regarding the issues found during application testing. DCEO officials provided auditors with some additional documentation; however, all files tested were still missing an application or were missing some required documentation.

Auditors recommended that DCEO develop internal controls to ensure that it receives and maintains all application documentation required by the Economic Development for a Growing Economy Tax Credit Act (35 ILCS 10/) and the Administrative Code (14 Ill. Adm. Code 527).

Evaluating the Tax Credit Program

Section 5-75 of the Economic Development for a Growing Economy Tax Credit Act requires DCEO to evaluate the EDGE program on a biennial basis. The evaluation is to include an assessment of the effectiveness on job creation in Illinois and the revenue impact of the program on the State. House Resolution Number 381 required auditors to determine whether DCEO was regularly assessing the effectiveness of the EDGE program. According to DCEO, it produced its **first** biennial report on October 31, 2019. The biennial report has been required since 1999 and is required to assess the effectiveness of the program in creating new jobs in

Illinois and the revenue impact of the program. As a result, DCEO was not in compliance with State law and did not report on the effectiveness of the program for approximately 20 years as required. This has been a finding by the Auditor General in past Compliance Examinations.

Insufficient Personnel

Section 5-10(g) of the Economic Development for a Growing Economy Tax Credit Act requires DCEO to provide sufficient personnel for operation of the EDGE program. According to DCEO, the day-to-day operations are managed by one full-time employee and a part-time intern. The day-to-day operations include all management and administrative duties including reviewing and approving EDGE applications and all related correspondence. It also includes all monitoring and oversight functions for hundreds of active EDGE agreements and the issuance of the Certificate of Verification (tax credit) to eligible businesses, along with all necessary correspondence.

According to the former Program Manager who was employed during most of the audit period, EDGE is a huge program, and to be timely, more staff are needed. The former manager noted that 2-3 full-time staff in addition to the Program Manager position are needed to properly administer the program. The issues identified by auditors in this report were likely intensified, if not caused, by the general lack of staffing for the EDGE program by DCEO.

Business Investment Committee

Section 5-25 of the Act establishes a Business Investment Committee (Committee) from the Illinois Economic Development Board (this Board was repealed by Public Act 100-621 on July 20, 2018). The Committee is to make inquiries, conduct studies, and make recommendations for whether an applicant’s project should or should not be accepted.

The Committee is not made up of the statutorily required members; therefore, decisions are made solely by DCEO officials and employees. According to DCEO, there is a committee, but it has not included the members required by the Act. Instead, the Committee consists of nine DCEO employees (see Exhibit 3-1). The Act requires the Committee to be comprised of the Director of DCEO or designee, the Director of the Governor’s Office of Management and Budget or designee, the Director of Revenue or designee, the Director of the Department of Employment Security or designee, and “an elected official of the affected locality, such as the chair of the county board or the mayor.”

DCEO should seek clarification by the General Assembly on how to proceed with the

Exhibit 3-1 DCEO BUSINESS DEVELOPMENT COMMITTEE MEMBERS
1. Deputy Director of Business Development
2. Asst. Deputy Dir. of Business Development
3. Deputy Director of Team RED
4. Assistant Director of Team RED
5. EDGE Program Manager
6. Advantage Illinois Program Manager
7. Chief Information Officer
8. Acting General Counsel
9. Chief Risk Officer
Source: Department of Commerce and Economic Opportunity.

makeup of the Business Investment Committee, since the Illinois Economic Development Board was repealed on July 20, 2018.

Verification of Prospects from Other States

Section 5-25 also discusses the review of applications. According to the Act, the Committee shall convene, make inquiries, conduct studies, review information, and make recommendations to benefit the State. During this process, the Committee is required to determine that, if not for the credit, the project would not occur in Illinois. During our review of application files, DCEO did not have verification of prospects from 37 of the 39 (95%) agreements approved during 2018. Auditors found that DCEO did not have procedures to obtain documentation that substantiates any offers or prospects from other states. As a result, auditors could not determine whether the businesses even contacted other states with regard to their economic development program opportunities.

Inaccurate Annual Report

Section 5-70 requires the Committee to submit an annual report to DCEO, the Governor, and to the General Assembly on or before July 1 of each year. The Act requires the annual report to include the number of agreements entered into during the calendar year, a description of the project, an update on the status of the projects previously under way, and the sum of the credits awarded under the Act. According to the Act, for each agreement, the annual report must include:

1. the original estimates of the value of the credit and the number of new jobs to be created or retained jobs if applicable;
2. any relevant modifications to the existing agreements;
3. a statement of progress made by each business in meeting the terms of the agreement;
4. a statement of wages paid to new employees or retained employees if applicable;
5. information related to supplier diversity goals; and
6. a copy of the original agreement.

Based on our review of documentation and information provided by DCEO, there were several numbers reported in the 2018 Annual Report that were not supported. For example, the Annual Report states that 248 companies received tax certificates during calendar year 2018 (which would have mainly been for calendar year 2017). Auditors received a listing of the 248 from DCEO; however, the number could not be verified by any of the actual data or documentation provided. The Annual Report itself only listed 185 businesses with tax credits issued for 2017 and only reported the wages paid as required for 153 businesses.

Additionally, there were 9 companies listed in the Annual Report as receiving a tax credit in 2017 but were not listed by DCEO in its 248 number. Auditors also found 37 companies listed in the 248 that were not listed as having received tax credits in the 2018 Annual Report.

Based on our inability to reconcile between sources of information provided by DCEO and the Annual Report, auditors concluded that the Annual Report does not report complete and accurate information.

Conclusion

It appears that a lack of internal controls, lack of program staff, the loss of staff with institutional knowledge of the program, and a lack of policies and procedures for the EDGE program were the cause of DCEO’s noncompliance with laws, rules, and agreements. Since DCEO is not in compliance with laws, rules, and agreements, it cannot effectively administer the EDGE tax credit program.

COMPLIANCE WITH LAWS, RULES, AND AGREEMENTS	
<p>RECOMMENDATION NUMBER</p> <p>5</p>	<p><i>The Illinois Department of Commerce and Economic Opportunity should comply with the Economic Development for a Growing Economy Tax Credit Act and should:</i></p> <ul style="list-style-type: none"> • <i>evaluate the EDGE program on a biennial basis as required by Section 5-75;</i> • <i>provide sufficient personnel for operation of the EDGE program as required by Section 5-10(g);</i> • <i>seek clarification by the General Assembly on how to proceed with the makeup of the Business Investment Committee, Section 5-25, since the Illinois Economic Development Board was repealed on July 20, 2018;</i> • <i>develop procedures to obtain documentation that substantiates any offers or prospects from other states as required by Section 5-25; and</i> • <i>ensure that the information in its Annual Reports is complete and accurate.</i>
<p>DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY RESPONSE</p>	<p>The Department agrees with Recommendation No. 5. As noted in the OAG audit, the Department filed the first biennial report on the effectiveness of the EDGE program as required by Section 5-75 of the EDGE Act in October 2019 and will continue to do so in future odd-numbered years. The Department, as noted, is also committed to working with the General Assembly to make any necessary changes to the committee structure or reporting requirements for the EDGE program. For example, while the Department filed its first-ever biennial report in October 2019, prior annual reports contained substantially the same information as that required by Section 5-75 for the biennial report. The Department is also working diligently on hiring necessary staff and developing an exhaustive policies and procedures manual for the EDGE program.</p>

Timely Issuance of Tax Credits

DCEO’s tax credit program did not meet time requirements identified in the EDGE agreements. Although not outlined by the Act, timeliness criteria related to the issuance of tax credits is outlined in the agreement between DCEO and the businesses. Businesses meet the requirements by submitting what is referred to as Exhibit D and a copy of proof of payroll. Auditors determined that the process is not conducted within the timeframes outlined in the agreement.

Auditors sampled 50 of the 248 tax credits DCEO indicated were issued in 2018. The majority of the agreements tested required businesses to submit information on or before 45 days after the end of each taxable year for which the business sought a tax credit. However, for 2 of the 50 tax credits issued, the agreements required the businesses to submit the information within 75 and 90 days, respectively. Our review found that businesses did not submit the required proof of compliance within the required timeframes in 33 of the 50 tax credits sampled (66%). The average number of days to submit the proof was 82 days.

Additionally, after receiving the proof of compliance with the agreement from the businesses, DCEO has 60 days to provide the business with the Certificate of Verification (tax credit). Our review found that DCEO did not issue the tax credit to the businesses within the required 60 days in 20 of the 50 of the tax credits sampled (40%). The average number of days it took DCEO to issue the tax credit was 97 days.

Conclusion

It appears that a lack of internal controls, lack of program staff, and a lack of policies and procedures for the EDGE program caused tax credits to be processed and provided to businesses in an untimely manner. As a result, Illinois businesses enrolled in the EDGE tax credit program did not receive their contractually earned tax credits timely from DCEO.

TIMELINESS OF TAX CREDIT PROCESS	
RECOMMENDATION NUMBER 6	<i>The Illinois Department of Commerce and Economic Opportunity should ensure that businesses are providing the required information, and it is issuing tax credits within the required timeframes outlined in the EDGE agreements.</i>
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY RESPONSE	The Department agrees with Recommendation No. 6. The Department believes that the basis for this finding is that due to staffing turnover documentation is not maintained in a central repository. The Department regularly approves extensions of time for company submissions. The Department also reviews company submissions in detail which often results in time delays to accurately determine the amount of EDGE credits available. Through staffing increases and completion of its comprehensive policies and procedures manual the Department believes this recommendation will be fully addressed.

Changes Required Under Public Act 100-511

DCEO updated its EDGE tax credit agreements timely after the effective date of Public Act 100-511 effective September 18, 2017. Auditors reviewed agreements that were approved after September 18, 2017 through the end of 2018 to determine whether they complied with Public Act 100-511. The new Public Act:

- reduced the capital investment requirement for applicant projects to zero (\$0) for businesses employing 100 or fewer and from \$5 million to \$2.5 million for businesses with more than 100 employees;
- limited the amount of tax credit available to participating businesses to the lesser of 100 percent of the incremental income tax attributable to new employees, or the sum of 50 percent of the incremental income tax (75 percent if the project is in an underserved area) plus 10 percent of new employee training costs;
- included a provision that, if the business never meets either the investment or job creation and retention requirements specified in the agreement within the first 5 years, the agreement is automatically terminated on the last day of the fifth taxable year;
- included a provision specifying that, if the business ceases principal operations with the intent to shut down the project in the State permanently during the term of the agreement, the entire credit amount awarded to the business shall be returned to DCEO; and
- included a requirement for companies to submit supplier diversity and sexual harassment reports.

At the time of this audit, agreements entered into after September 18, 2017, would not have completed the two-year “ramp-up” period. Thus, we could not review whether these new provisions were being met. Therefore, auditors reviewed the agreements signed after September 18, 2017, to see if these new requirements were contained in the language of these agreements.

Based on a review of EDGE agreements executed between September 18, 2017, through December 31, 2018, auditors reviewed 39 agreements to determine whether the new requirements from Public Act 100-511 were contained within the language. Auditors found that all 39 of the agreements contained the new language.

APPENDICES

APPENDIX A
HOUSE RESOLUTION NUMBER 381

STATE OF ILLINOIS
HOUSE OF REPRESENTATIVES
101ST GENERAL ASSEMBLY

HOUSE RESOLUTION No. 0381

OFFERED BY REPRESENTATIVES MARK L. WALKER-DEBBIE MEYERS-MARTIN

WHEREAS, The Economic Development for a Growing Economy (EDGE) Tax Credit Program is an economic development tool operated by the Illinois Department of Commerce and Economic Opportunity; and

WHEREAS, The EDGE Tax Credit Program is a targeted incentive program that provides tax credits for businesses that create new full-time jobs, retain existing full-time jobs, and make capital investments in Illinois; and

WHEREAS, The EDGE Tax Credit Program is designed to help areas of Illinois that are in direct competition with other states for jobs and development; and

WHEREAS, According to the 2017 EDGE Annual Report, since 1999 nearly \$1.7 billion in tax credits have been issued, 41,238 jobs were reported to have been created, and 46,160 jobs were reported to have been retained; and

WHEREAS, According to the FY17 Comprehensive Annual Financial Report, the State of Illinois abated income taxes totaling approximately \$179.1 million through the EDGE program for FY17; and

WHEREAS, Public Act 100-511 made significant changes to and extended the EDGE Tax Credit Program; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED FIRST GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that the Auditor General is directed to conduct a performance audit of the Department of Commerce and Economic Opportunity's Economic Development for a Growing Economy (EDGE) Tax Credit Program; and be it further

RESOLVED, That the performance audit shall include, but not be limited to, the following determinations:

- (1) Whether the Department is administering the EDGE program in accordance with applicable laws, rules, policies, and procedures;
- (2) Whether the Department is adequately monitoring EDGE recipients;
- (3) Whether the Department has implemented the changes required under Public Act 100-511;
- (4) Whether the Department is regularly assessing the effectiveness of the EDGE program; and
- (5) Whether the EDGE tax incentives in Illinois are similar to programs in surrounding states; and be it further

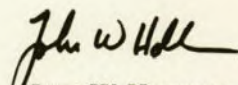
RESOLVED, That the audit include an analysis of the amount of tax credits approved and the number of jobs created or retained; and be it further

RESOLVED, That the Department of Commerce and Economic Opportunity cooperate fully and promptly with the Auditor General in the conduct of this audit; and be it further

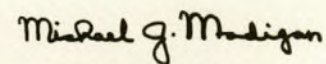
RESOLVED, That the Auditor General commence this audit as soon as possible and submit his report, including his findings and recommendations, upon completion in accordance with the provisions of Section 3-14 of the Illinois State Auditing Act; and be it further

RESOLVED, That a copy of this resolution be delivered to the Auditor General and the Department of Commerce and Economic Opportunity.

Adopted by the House of Representatives on June 1, 2019.


JOHN W. HOLLMAN
CLERK OF THE HOUSE




MICHAEL J. MADIGAN
SPEAKER OF THE HOUSE

APPENDIX B
AUDIT SCOPE AND METHODOLOGY

Appendix B

AUDIT SCOPE AND METHODOLOGY

This performance audit was conducted in accordance with generally accepted government auditing standards and the audit standards promulgated by the Office of the Auditor General at 74 Ill. Adm. Code 420.310.

Audit standards require that we plan and perform the 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 found in House Resolution Number 381.

The audit objectives were delineated by House Resolution Number 381, which directed the Auditor General to conduct a performance audit of the Department of Commerce and Economic Opportunity's (DCEO) Economic Development for a Growing Economy (EDGE) tax credit program. The Resolution contained several specific determinations (listed below):

1. whether DCEO is administering the EDGE program in accordance with applicable laws, rules, policies, and procedures;
2. whether DCEO is adequately monitoring EDGE recipients;
3. whether DCEO has implemented the changes required under P.A. 100-511;
4. whether DCEO is regularly assessing the effectiveness of the EDGE program; and
5. whether the EDGE tax incentives in Illinois are similar to programs in surrounding states.

The Resolution also required the audit to include an analysis of the amount of tax credits approved and number of jobs created or retained.

In conducting this audit, auditors reviewed applicable State statutes and rules. We also reviewed management controls and assessed risk related to the audit's objectives. A risk assessment was conducted to identify areas that needed closer examination. Any significant weaknesses in those controls are included in this report.

In conducting this audit, we requested and reviewed specific documents and other information related to the EDGE tax credit program. These included agreements, annual reports, hard copy application files, electronic monitoring files, and information contained in the customer relationship management system.

Auditors developed a survey of other states' programs that were similar to Illinois' EDGE program. Each state was contacted by telephone and was asked to complete the survey. Five states were sent the survey and only one of the five returned the survey.

Auditors tested EDGE program applications approved by DCEO in 2018 and found incomplete files and missing documentation required by the EDGE Tax Credit Act (35 ILCS

10/5) (Act), Administrative Code (14 Ill. Adm. Code 527), and the EDGE Tax Credit Program application. All 39 of the EDGE program application files tested were missing required documentation, and two program files could not be provided by DCEO.

During the conduct of our audit, DCEO could not produce two necessary pieces of basic information related to the EDGE program. DCEO could not provide auditors with: (1) the number of active agreements in 2017; and (2) the number of tax credits issued in 2018 (the tax credits issued in 2018 are primarily for meeting the necessary requirements in 2017). A DCEO official told auditors it would require comparing the customer relationship management system with the hard copy files and with the electronic documents. The official noted this could take four weeks to complete. Therefore, auditors concluded this information was not available to DCEO officials for use in day-to-day operations and monitoring of the EDGE tax credit program.

Auditors conducted limited testing on the monitoring efforts by DCEO on the 248 tax credits awarded in 2018, even though auditors determined that the 248 was not a complete listing and would not accurately allow auditors to project any appropriate conclusions about the EDGE program. Auditors compared the 248 tax credits, which were listed in the 2018 Annual Report, with the Inventory of EDGE agreements provided by DCEO and with an additional dataset provided by DCEO of all tax credits from the customer relationship management system awarded in 2018 that totaled 243. After attempting to identify whether the 248 or the 243 were an accurate population, auditors determined that there were various inconsistencies between these two populations when compared to each other.

The original EDGE Tax Credit Act sunset in April 2017 and Public Act 100-511 was signed in September 2017 to reinstate the program. Auditors tested a sample of new agreements to determine whether the new requirements from Public Act 100-511 were contained within the agreement language.

Auditors requested and DCEO was not able to provide all documentation required for monitoring the capital improvement costs and independent audits, known as “Agreed Upon Procedures” (AUP). Based on a review of the AUP’s for the sample of 50 tax credits issued in 2018 auditors found that AUP’s were missing from 6 of the 50 files tested (12%) and 1 of the 50 tested (2%) did not support that the capital improvement requirement was met.

From the list of 248 agreements with tax credits issued in 2018 provided by DCEO, auditors selected a sample of 50. The sample was used to determine compliance with lease agreements, building contracts, and obtaining agreed upon procedure audits. The sample was also used to determine whether time requirements identified in the EDGE agreements were met. Since the sample was pulled from an inconsistent source, and the exact population of EDGE agreements is unknown by DCEO, the results cannot be projected to the population.

During the audit, auditors conducted interviews and phone conferences with officials from DCEO. Auditors met with the EDGE Program Manager and the Deputy Director of Business Development to obtain an overview of the program and understanding of how the application process works. In addition, auditors met with a member of DCEO’s Team Regional Economic Development (RED) to understand how businesses were recruited to participate in the EDGE program and Team RED’s function within the EDGE program. Auditors were informed that an internal audit had been completed in May 2019 for the EDGE program. When auditors

met with the Chief Internal Auditor of DCEO, we discussed the internal audit findings and methodology and collected documentation used to complete the internal audit. Auditors continued to meet with EDGE program officials during the course of the audit to collect documentation, discuss preliminary testing results, potential audit findings, and answer any questions related to the EDGE program.

The date of the Exit Conference, along with the principal attendees are noted below:

Date: May 7, 2020

Agency

Illinois Department of Commerce and Economic Opportunity

Name and Title

- Erin Guthrie, Director
- Travis March, Chief Operating Officer
- Michelle Masoncup, Legal Counsel
- Justin Heather, Deputy Director Business Development
- Kimberly Hill, Chief Accountability Officer
- Megan Buskirk, External Accountability Officer
- Robert Bailey, External Accountability Manager

The Office of the Auditor General was represented by:

- Scott Wahlbrink, Senior Audit Manager
 - Geoff Piehl, Audit Supervisor
 - Alison Storm, Audit Staff
-

APPENDIX C
AGENCY RESPONSE



**Illinois
Department of Commerce
& Economic Opportunity**

JB Pritzker, Governor

May 11, 2020

Via electronic mail

Scott Wahlbrink (SWahlbrink@auditor.illinois.gov)

Audit Manager

Office of the Auditor General

Iles Park Plaza

740 East Ash

Springfield, Illinois 62703-6046

Dear Mr. Wahlbrink:

I write in response to your letter April 27, 2020 and the accompanying draft audit report provided by the Office of the Auditor General (“OAG”) pursuant to House Resolution No. 381 (“HR 381”). HR 381 charged the OAG with performing a broad-ranging performance audit of the Economic Development for a Growing Economy (“EDGE”) Tax Credit Act (the “EDGE Act”) and the performance of the Department of Commerce and Economic Opportunity (the “Department”) in implementing the EDGE Act, including the changes to the program enacted in 2017. This letter provides the Department’s response to the OAG’s audit pursuant to HR 381.

Overview

Since January 2019, the Department has worked with the OAG on the present audit, concluded an internal audit of the EDGE program, worked with faculty and students of the University of Chicago Harris School of Public Policy on a review of the performance of the EDGE program, and reviewed various policies and procedures related to the program. Many of these improvements are ongoing and have been delayed due to turnover in program management and challenges faced in increasing staffing for the EDGE program. Indeed, there was significant turnover in the program manager role for the EDGE program during the conduct of the present OAG audit which adversely affected some of the OAG’s findings. The EDGE program does not currently have a permanent manager; however, this position is one of the Department’s hiring priorities as is additional staff for the program. Despite these challenges, the Department continues to prioritize implementing the recommendations contained the OAG audit as well as those of our internal auditors in improving program performance. The Department looks forward to continuing to work with the General Assembly in revising the EDGE Act and its governing rules where necessary to improve the EDGE program and fulfill the purposes of the EDGE Act.

Response to Specific Audit Recommendations

Before addressing each of the specific recommendations made by the OAG, the Department notes that several of the specific findings underlying those recommendations were likely the result of turnover

in the EDGE program manager role and supporting personnel. As was discussed during the exit conference, the EDGE program manager during the time of the OAG's audit was new to that role and lacked the institutional knowledge to timely respond to OAG inquires. Further, as noted by the OAG, additional staffing is necessary to operate the EDGE program. Several findings relate to or were directly the result of weaknesses in our current technology. Specifically, the Department is working to identify a replacement platform for our current Customer Relationship Management ("CRM") system. Considering these staffing and technological challenges, the Department responds to the specific OAG recommendations as follows.

Recommendation No. 1: The Illinois Department of Commerce and Economic Opportunity should work with the General Assembly to enact necessary changes to sections of the Economic Development for a Growing Economy Tax Credit Act (35 ILCS 10) and the Administrative Code (14 Ill. Admin. Code 527) that are either no longer valid or are not feasible.

The Department agrees with Recommendation No. 1. The Department specifically agrees with each of the three (3) recommended changes identified by the OAG:

- All references to the Illinois Economic Development Board and the Business Investment Committee of that board in should be stricken, as the Illinois Economic Development Board was repealed subsequent to passage of the current EDGE Act. As neither that Board or the Committee has been active, the Department created a Business Development Committee internally to review and approve or deny EDGE applications. That committee is staffed by the Department's: Assistant Director; Deputy Director, Business Development; Assistant Deputy Director, Business Development; General Counsel; Deputy Director, Regional Economic Development Team ("Team RED"); Chief Risk Officer; EDGE Program Manager; and various members of the Business Development bureau and Team RED when those individuals have business before the committee. The recommendations of the Department's Business Development committee are subject to the review and approval of the Director. The Department also works closely with officials of local communities impacted by companies seeking assistance through the EDGE program. As noted by the OAG, the Department has continued to also perform the defunct Business Investment Committee's obligation to file annual reports with the Governor and the General Assembly.
- Section 5-40, titled "Determination of Amount of the Credit", should also be revised in light of the formulaic method for calculating the EDGE credit set forth in the current EDGE Act. While the factors in that section are no longer relevant for purposes of determining the amount of the credit, the Department's Business Development Committee considers these factors in determining whether to award an EDGE agreement to an applicant business.
- The requirement in Section 5-70(6) of the EDGE Act that the annual report should include copies of original EDGE agreements should also be stricken. In or about early 2016, the Department began posting all EDGE agreements on its website, which is now a requirement of the current EDGE Act. Given the number of agreements entered into each year and the length of each of those agreements, including each agreement in the annual report would render it unwieldy. In lieu of including those agreements in the annual report, the annual report incorporates by reference

those agreements which are included on the Department's website. (2018 Economic Development for a Growing Economy Tax Credit Program Annual Report, page 10, note 1.)

The Department looks forward to working with the General Assembly on the above recommendations as well as other opportunities for improving the operations and effectiveness of the EDGE program.

Recommendation No. 2: The Illinois Department of Commerce and Economic Opportunity should seek clarification from the General Assembly related to specific guidance on what evidence is necessary to determine proof of incentives available from other states and guidance related to residency requirements for the EDGE Tax Credit Program.

The Department agrees with Recommendation No. 2.

Evidence of other state offers or considerations. As the Department understands it, certain of the changes made by the General Assembly to Section 5-25(b) of the EDGE Act in 2017 were meant to clarify that an EDGE applicant need not contact a competing state in order to qualify for an EDGE agreement. In practice, the Department requires EDGE applicants to provide a certified statement that the credit is essential to the applicant's decision to move forward with the project (a representation repeated in the EDGE agreement) and provide a detailed explanation (with a supporting cost differential) demonstrating that the project would likely be more economical outside Illinois. Pursuant to Section 5-25(b)(3) and the definition of the term "Credit" under the EDGE Act, applicants seeking credit for retained employees must provide internal company memoranda, third party analysis, or an offer from a competing state to qualify for the retained credit. The Department is happy to work with the General Assembly to develop any statutory or rule amendments necessary to codify this practice or otherwise clearly implement the legislative intent.

Residency. There is no requirement in the EDGE Act that new employees, retained employees or employees that constitute baseline employment be Illinois residents. Historically, the Department did not require companies to report the residency of employees for whom a credit is sought, either in terms of achieving employment thresholds or calculating the total amount of the EDGE tax credit. In or about 2017, the Department implemented a payroll reporting template which requires companies seeking a credit to identify the state residency of each of the employees being claimed for purposes of satisfying employment thresholds or calculating the total amount of the EDGE credit. The vast majority of such employees are Illinois residents, and the issues usually only arises in border communities where non-residents may easily travel to the business location. The Department only allows non-residents working at the specific project site to be counted where: (a) the employee pays Illinois withholding taxes or (b) the employee resides in a state with reciprocity and thus has no Illinois withholding taxes (which means the company may count the individual toward job creation, retention or baseline targets but there is no monetary benefit in terms of a credit amount related to the employee). Business Development staff have regular interaction with companies seeking a credit to confirm that any non-residents claimed satisfy the departmental requirements noted above as well as the other provisions of the EDGE Act. The Department's policies in this regard are meant to recognize that allowing companies to account for a few non-residents does not undermine the overall benefits to Illinois and its residents from the development.

The Department is happy to work with the General Assembly to develop any statutory or rule amendments necessary to codify this practice or otherwise clearly implement the legislative intent.

Recommendation No. 3: The Illinois Department of Commerce and Economic Opportunity should develop internal controls, hire adequate staff, and develop policies and procedures to ensure that it receives and maintains all application documentation required by the Economic Development for a Growing Economy Tax Credit Act (35 ILCS 10) and the Administrative Code (14 Ill. Admin. Code 527).

The Department agrees with Recommendation No. 3. In response to the internal audit of the EDGE program concluded in 2019, the Department has drafted a voluminous and detailed policies and procedures manual. As noted above, the Department is also actively working to hire a new program manager and supporting staff for the EDGE program as well as identify a replacement CRM software to improve information collection and data analysis. Due to staffing turnover and other bandwidth constraints, these policies have not yet been fully implemented. Beginning in 2017, the Department began digitizing the EDGE program files which previously were maintained in hardcopy form and will continue to develop that process.

Required proof of employment, wages and withholding. The OAG audit raised certain issues with respect to required proof of employment, wages and withholding. Section 5-55 of the EDGE Act requires that a company seeking a credit “provide proof as required by the Department.” As previously noted, in or about 2017, the Department implemented a payroll reporting template requiring companies to submit detailed information as to each employee in more than ten (10) categories include, title, residency, hire date, wages and withholding. This payroll is accompanied by a signed certification from the company and, in the case of the first credit, an agreed upon procedures report from a third-party accountant. In the event it is determined by the General Assembly that additional proof is needed, the Department welcomes the opportunity to develop potential statutory or rule amendments.

Recommendation No. 4: The Illinois Department of Commerce and Economic Opportunity should develop internal controls, hire adequate staff, and develop policies and procedures necessary to reconcile its EDGE program monitoring documentation sources and generate an accurate listing of active EDGE agreements and tax credits issued. Additionally, DCEO should create a unique project numbering system and maintain complete and accurate programmatic documentation necessary to report on effectiveness such as jobs created or retained and the revenue impact of the program.

The Department agrees with Recommendation No. 4. In response to the internal audit of the EDGE program concluded in 2019, the Department has drafted a voluminous and detailed policies and procedures manual. As noted above, the Department is also actively working to hire a new program manager and supporting staff for the EDGE program as well as identify a replacement CRM software to improve information collection and data analysis necessary for monitoring the program. Due to staffing turnover and other bandwidth challenges these policies have not yet been fully implemented. The OAG audit repeatedly notes that Department staff indicated it would take several weeks to collect certain


information requested by the OAG. The Department believes this was due to the relative inexperience of the then-program manager and the Department is committed to hiring a new program manager and taking action to replace its current CRM system. The Department further believes that these contemplated actions and implementing the other recommendations from the OAG and internal audit teams will greatly enhance the Department's ability to effectively monitor the EDGE program.

- Recommendation No. 5: The Illinois Department of Commerce and Economic Opportunity should comply with the Economic Development for a Growing Economy Tax Credit Act and should:*
- *evaluate the EDGE program on a biennial basis as required by Section 5-75;*
 - *provide sufficient personnel for operation of the EDGE program as required by Section 5-10(g);*
 - *seek clarification by the General Assembly on how to proceed with the makeup of the Business Investment Committee, Section 5-25, since the Illinois Economic Development Board was repealed on July 20, 2018;*
 - *develop procedures to obtain documentation that substantiates any offers or prospects from other states as required by Section 5-25; and*
 - *ensure that the information in its Annual Report is complete and accurate.*

The Department agrees with Recommendation No. 5. As noted in the OAG audit, the Department filed the first biennial report on the effectiveness of the EDGE program as required by Section 5-75 of the EDGE Act in October 2019 and will continue to do so in future odd-numbered years. The Department, as noted, is also committed to working with the General Assembly to make any necessary changes to the committee structure or reporting requirements for the EDGE program. For example, while the Department filed its first-ever biennial report in October 2019, prior annual reports contained substantially the same information as that required by Section 5-75 for the biennial report. The Department is also working diligently on hiring necessary staff and developing an exhaustive policies and procedures manual for the EDGE program.

- Recommendation No. 6: The Illinois Department of Commerce and Economic Opportunity should ensure that businesses are providing the required information, and it is issuing tax credits within the required timeframes outlined in the EDGE agreements.*

The Department agrees with Recommendation No. 6. The Department believes that the basis for this finding is that due to staffing turnover documentation is not maintained in a central repository. The Department regularly approves extensions of time for company submissions. The Department also reviews company submissions in detail which often results in time delays to accurately determine the amount of EDGE credits available. Through staffing increases and completion of its comprehensive policies and procedures manual the Department believes this recommendation will be fully addressed.



If you have any questions or concerns, please do not hesitate to contact me. Thank you.

Sincerely,

SIGNED ORIGINAL ON FILE

Erin B. Guthrie
Director

cc: Kimberly Hill
Megan Buskirk

