

OFFICE OF FINANCE PROGRAMS  
THE ECONOMIC DEVELOPMENT  
OPPORTUNITIES PROGRAM  
(SUNNY DAY)

ANNUAL FINANCIAL STATUS REPORT  
FISCAL YEAR 2012

STATE FINANCE & PROCUREMENT  
ARTICLE

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Submitted by:

Maryland Department of Business and Economic Development

As of June 30, 2012

THE ECONOMIC DEVELOPMENT OPPORTUNITIES PROGRAM  
(SUNNY DAY)

TABLE OF CONTENTS

<i>History and Program Description</i> .....	1
Actual Program Performance From Inception through June 30, 2012 .....	1
Program Performance for Fiscal Year 2012.....	2
Projected Program Performance for Fiscal Year 2013 .....	2
 <i>Sunny Day Supplemental Charts - 3-Year Activity</i>	
Approvals.....	3
Forgiven/Clawback and Extraordinary Repayments .....	4
 <i>Approved Report July 1, 2011 through June 30, 2012</i> .....	 7

## **ECONOMIC DEVELOPMENT OPPORTUNITIES PROGRAM FUND (SUNNY DAY)**

### **History and Program Description**

The Economic Development Opportunities Program Fund (Sunny Day or Program) was created by statute in 1988 to enable Maryland to act on extraordinary economic development proposals that required financial assistance beyond the capabilities of other state and local financing programs. The Sunny Day Fund is a non-lapsing revolving fund administered by the Department of Business and Economic Development (the "Department"). Under the program, funds are loaned, granted or invested to assist in the retention and expansion of existing business, or the establishment and attraction of new business in Maryland.

Under the Program, the Department is required to submit an analysis of each Sunny Day proposal as part of the approval request process to the Legislative Policy Committee of the Maryland General Assembly. The analysis must include, among other things, a description of the projected economic impact and the number and type of jobs to be created and/or retained as a result of the project. The Department focuses significant attention on the analysis of a request and the projected economic impact before approval. The Department must also conduct substantial monitoring actions after an incentive has been approved and funded. Agreements carry strict performance requirements, including; capital investments within specified time frames; job creation over a fixed period of time; maintenance of certain jobs levels for a specified time period, usually 3-5 years; and reporting of financial information, employment information and capital investment information on a periodic basis.

The Program Statute requires that each Sunny Day project be deemed an extraordinary economic development opportunity, as defined by the following criteria:

- The recipient must maintain a strong financial condition and a minimal risk profile
- The recipient is capable of accessing alternative sources of financing through financial institutions or capital markets
- Minimum of 5:1 capital investment by the recipient for each \$1 of Sunny Day funds
- The recipient's project is consistent with the strategic plan of the State for economic development
- The recipient creates or retains substantial employment, particularly in areas of high unemployment

Additionally, the Department encourages the local jurisdiction to participate by providing any one or a combination of the following: a loan, a conditional loan, a grant, an in-kind contribution, job training funds, tax credits, tax increment financing or below market contributions. For more information on how Sunny Day projects are prioritized and structured, please refer to the Sunny Day Guidelines Report in accordance with the State Finance & Procurement Article Section 7-314(j).

### **Actual Program Performance from Inception through June 30, 2012**

As of June 30, 2012, the Department had settled a total of one hundred-twenty (120) Sunny Day transactions with a total aggregate original balance of \$170,614,571. Of that total, seventy-four (74) transactions totaling \$103,120,944 were structured as loans or conditional loans, forty-two (42) transactions totaling \$52,493,627 were structured as grants or conditional grants, and four (4) transactions totaling \$15,000,000 were structured as investments. The above assistance has contributed to the retention of 35,022 jobs, the creation of 24,474 new jobs, and capital investment of \$2.4 billion.

Based on the full or partial achievement of performance requirements related to the assistance provided under the program, forty-eight (48) conditional grants or loans with an aggregate original amount of \$65,984,000 have achieved either full or partial forgiveness, totaling \$60,421,585. In contrast, as a result of not fully achieving

## **DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT**

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all performance criteria, twenty-four (24) conditional grants and loans with an aggregate original amount of \$25,479,000 have been subject to clawbacks of \$15,854,228.

As of June 30, 2012, the total outstanding active portfolio consisted of fourteen (14) loans, conditional loans, conditional grants, and investments with a total original approved balance of \$36,326,368 and an outstanding balance of \$27,305,012. The portfolio breaks down into two (2) loans and conditional loans with a total original approved balance of \$3,852,283 and an outstanding balance of \$1,491,462; eight (8) grants and conditional grants having a total original approved balance of \$17,474,085 and an outstanding balance of \$14,104,770; and four (4) investments with a total original approved balance of \$15,000,000 and a total outstanding balance of \$11,108,779. The total outstanding active portfolio continues to be subject to review for compliance with performance requirements.

In fiscal year 2012, the program had no charge-off activity and charge-off collections of \$2,857. The Sunny Day program has had a historical total gross charge-off of \$9,654,051 since inception of the Program. It should be noted that the majority of the historical charge off amount is confined to five transactions with entities that were affected by general economic conditions, combined in some cases with specific industry conditions. All five entities declared bankruptcy, which were comprised of one loan of \$3,000,000 (charged off in 2003), three conditional loans aggregating \$5,725,000 (charged off in 2003 and 2005), and one loan of \$929,051 (charged off in 2010). The Department has collected \$804,722 of the total, and continues to work within the bankruptcy guidelines to support potential restructures that result in repayment and continued employment, which stays within the original scope of the projects.

In addition, at the end of fiscal year 2012 there was one other entity within the portfolio in bankruptcy which owes the Fund \$2,000,000 in the form of a conditional grant. To date, the Department has collected \$1,275,134 of the total.

### **Program Performance for Fiscal Year 2012**

In fiscal year 2012 there was one project, Bechtel Group, Inc., which was approved, but had not closed by the end of the fiscal year. The continuing reduced level of activity under the program reflects the ongoing shift to usage of the MEDAAF program for deals that were historically done under this program, as well as, the lack of budgeted funds for the program that would permit planning its use for future commitments.

### **Projected Program Performance for Fiscal Year 2013**

Due to ongoing budget restraints, the Program did not receive a budget appropriation for fiscal year 2013. Any available funds would come from the ongoing repayment of existing projects in the portfolio. In general, the nature of a Sunny Day project is such that its lifespan generally straddles two and often three fiscal periods, from project introduction, through approval and final disbursement of the funds. Although the Program has not received new funding since fiscal year 2002, the Department continues to be involved in completing the documentation, funding, and monitoring process on projects that were presented to the Legislative Policy Committee for approval in prior fiscal years.

**DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT**

**Sunny Day Approval – 3 Year Activity**

<b><i>SUNNY DAY FUND PROJECTS APPROVED FY'12</i></b>						
<b>Company</b>	<b>Incentive (In Dollars)</b>	<b>County</b>	<b>Amount Disbursed (In Dollars)</b>	<b>FY Disbursed</b>	<b>Goal</b>	<b>Measure of Economic Development Attain By Status</b>
Bechtel Group, Inc.	\$9,500,000	Frederick	N/A	N/A		The Company is to retain its operations in Frederick County and employ at least 1,250 employees for seven years (12/31/2018). Disbursements are to occur in phases – \$2 MM to be disbursed in calendar year 2012. The remaining \$7.5 MM is to be disbursed in amounts not to exceed \$1,071,429 annually. Annual employment reports are required and a pro-rata of \$857 plus a 3% fee (in lieu of interest) is due for each position short of 1,250.

<b><i>SUNNY DAY FUND PROJECTS APPROVED FY'11</i></b>						
<b>Company</b>	<b>Incentive (In Dollars)</b>	<b>County</b>	<b>Amount Disbursed (In Dollars)</b>	<b>FY Disbursed</b>	<b>Goal</b>	<b>Measure of Economic Development Attain By Status</b>
The Sunny Day Program did not have any new approvals in fiscal year 2011						

<b><i>SUNNY DAY FUND PROJECTS APPROVED FY'10</i></b>						
<b>Company</b>	<b>Incentive (In Dollars)</b>	<b>County</b>	<b>Amount Disbursed (In Dollars)</b>	<b>FY Disbursed</b>	<b>Goal</b>	<b>Measure of Economic Development Attain By Status</b>
The Sunny Day Program did not have any new approvals in fiscal year 2010						

**DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT**

**Sunny Day Forgiven and Clawback - 3 Year Activity**

<b><i>SUNNY DAY FORGIVEN/CLAWBACK ACTIVITY FY'12</i></b>								
KEY CODE: CG – Conditional Grant CL – Conditional Loan L – Loan INV – Investment FTE – Permanent Full-time Employee (s)								
<b>Company</b>	<b>Jurisdiction</b>	<b>Financing</b>	<b>Original Amount</b>	<b>Amount Forgiven</b>	<b>Date of Forgiveness</b>	<b>Clawback Amount</b>	<b>Clawback Date</b>	<b>Comments</b>
MedImmune	Prince George	CG	\$2,500,000	\$2,500,000	12/31/11	N/A	N/A	The Company was required to employ at least 447 FTE by 2002 and reach an employment level of at least 847 by 12/31/2008 and retain a level of 847 FTE through 12/31/2011, expend at least \$50 million in project costs, and maintain its Corporate Headquarters in the State. The Department verified that the company met the requirements and the Department forgave the original amount.

**DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT**

**SUNNY DAY FORGIVEN/CLAWBACK ACTIVITY FY'11**

KEY CODE: CG – Conditional Grant  
 CL – Conditional Loan  
 L – Loan  
 INV – Investment  
 FTE – Permanent Full-time Employee (s)

Company	Jurisdiction	Financing	Original Amount	Amount Forgiven	Date of Forgiveness	Clawback Amount	Clawback Date	Comments
International Masonry Institute	Prince George	CL	\$1,500,000	N/A	N/A	\$1,500,000	3/31/2010	The Company was required to employ 200 FTE by 3/31/10. The transaction has been modified several times to extend the employment requirements. The Company has been unable to reach the employment goals and is therefore required to repay the Loan with interest. The Department negotiated a repayment of \$450,000 in accrued interest, to be paid upfront, followed by full repayment of the original loan amount and interest at 6%, effective 4/1/10 – the Company is making quarterly payments over a 2-year period beginning on 7/1/10.

**DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT**

**SUNNY DAY FORGIVEN/CLAWBACK ACTIVITY FY'10**

KEY CODE: CG – Conditional Grant  
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 INV – Investment  
 FTE – Permanent Full-time Employee (s)

Company	Jurisdiction	Financing	Original Amount	Amount Forgiven	Date of Forgiveness	Clawback Amount	Clawback Date	Comments
Morgan Stanley	Baltimore City	CG	\$1,000,000	\$1,000,000	11/30/2009	N/A	N/A	The Company was required to employ a 3-year average of at least 300 FTE from 11/30/06 – 11/30/09, and expend at least \$8 million in project costs. The Department verified that the Company employed an average of at least 300 FTE and made a capital investment in excess of \$8 million – meeting the requirements the Department forgave the original amount.
Qiagen	Montgomery	CL	\$2,500,000	\$1,216,718	12/31/09	N/A	N/A	The Company was required to employ at least 300 FTE from 12/31/04 – 12/31/09, and expend at least \$40 million in project costs. The Department verified that the Company employed 258 FTE and met the required capital investment of \$40 million. The Department forgave the remaining outstanding loan amount and accrued interest. Calculation of the forgiveness amount included a reduction in the amount due for previously clawed back amounts.



**DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT**

# Approved Report

7/1/2011 Through 6/30/2012

<i>Approved Client Name Retained Date</i>	<i>Loan</i>	<i>Loan</i>	<i>Guarantor</i>	<i>Loan</i>	<i>County</i>	<i>Total Project</i>	<i>Trainees</i>	<i>New</i>	
		<i>Amount</i>	<i>Percentage</i>	<i>Guarantee</i>		<i>Costs</i>	<i>Pro / Actual</i>	<i>Jobs</i>	<i>Jobs</i>
<i>Sunny Day Cond. Loan</i>									
10/20/2011 Bechtel Group, Inc.	13090101	\$9,500,000.00	0.0%	\$0.00	Frederick	\$9,500,000.00	N/A	0	1250
<b>Totals:</b>	<b>1 Loan</b>	<b>\$9,500,000.00</b>		<b>\$0.00</b>		<b>\$9,500,000.00</b>	<b>0</b>	<b>0</b>	<b>1250</b>
<b>Grand Totals:</b>	<b>1 Loan</b>	<b>\$9,500,000.00</b>		<b>\$0.00</b>		<b>\$9,500,000.00</b>	<b>0</b>	<b>0</b>	<b>1250</b>