

ALASKA STATE LEGISLATURE

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SENATOR BERT K. STEDMAN

MEMORANDUM

TO: Legislative Budget and Audit Committee Members

FROM: Senator Bert Stedman, Chairman
Legislative Budget and Audit Committee

DATE: May 28, 2018

RE: Department of Revenue / GeFONSI Tax Credit Loan

I respectfully request an audit of the Department of Revenue (DOR) / GeFONSI tax credit loan program in response to recent allegations and concerns that the DOR is not managing or investing funds from the GeFONSI Pool in compliance with state statutes, regulations, DOR policies and procedures, and / or the terms of the agreement(s) between DOR and a borrower.

BACKGROUND

The DOR – Treasury Department is authorized to make investments when certain requirements are met. AS 37.10.071. This includes lending “[a]ssets, under an agreement and for a fee, against deposited collateral of equivalent market value.” AS 37.10.071(b)(5). The Treasury Department has adopted investment policies and procedures to be followed in managing and investing state funds. (Investment Policy Statement)

Before October 1, 2015, DOR determined it could operate a tax credit backed loan program. Loan(s) were made to a single borrower, Mustang Operations Center, LLC (“MOC 1 LLC”).

On October 1, 2015, DOR entered into a Line of Credit Agreement, Line of Credit Note (“Note”), and Security Agreement for \$22.5 million dollar loan to MOC 1. Principal and interest was due on December 31, 2016. The Note was secured by MOC 1 tax credits.

District R

*Angoon • Coffman Cove • Craig • Edna Bay • Elfin Cove • Hollis • Hoonah • Hydaburg • Hyder • Kake • Kasaan
Ketchikan • Klawock • Klukwan • Kupreanof • Metlakatla • Meyers Chuck • Naukati • Pelican • Petersburg
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Effective July 1, 2016, the Treasury Department amended its Investment Policy Statement to allow the use of funds from the GeFONSI Pool for investment in tax credit loans. (Copy of policy available on DOR website)

The parties have engaged in several actions since the initial Line of Credit Agreement was signed, including at least one payment on amounts due and extending maturity dates. The total due as of March 31, 2018, was \$19.7 million with a current maturity date of July 15, 2018.

PURPOSE OF AUDIT

Investigate compliance by DOR with state statutes, regulations, DOR policies and procedures, and / or the terms of the agreement(s) between DOR and a borrower. I ask that the audit include the following objectives over a time period determined appropriate by the legislative auditor.

- Determine whether DOR followed all state statutes, regulations, DOR policies and procedures, and / or the terms of the agreement(s) between DOR and MOC 1 in making a loan in 2015 and later amending terms, etc.
- Evaluate whether the loan and any subsequent amendments, etc., were reported accurately by DOR for the purpose of being included in the State of Alaska's financial statements.
- Review the payment and repayment history of the loan between DOR and MOC 1 and determine whether all state statutes, regulations, DOR policies and procedures, and/or the terms of the agreement(s) between DOR and MOC 1 were followed.
- Examine the use of oil tax credits as collateral for the MOC 1 loan and whether such actions comply with all state statutes, regulations, and DOR policies and procedures, and / or the terms of the agreement(s) between DOR and MOC 1.
- Review legal issues related to the loan, including notice to the legislature and how the legislature's appropriation authority applies, (if it does) to the loan.
- How broadly the tax credit backed loan program was offered, and if the opportunity was only offered to MOC 1, why was the program limited to MOC 1.
- Whether there were any conflicts of interest, internally or externally.
- Follow up of other related concerns identified by the Legislative Auditor during the audit.