

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
PROJECT SUMMARY - STAND-ALONE BOND PROGRAM**

APPLICANT: TDAF I Pru Hotel Urban Renewal Company, LLC

P32289

PROJECT USER(S): Same as applicant

* - indicates relation to applicant

PROJECT LOCATION: 842-868 Broad Street

Newark City (T/UA)

Essex

GOVERNOR'S INITIATIVES: (X) Urban () Edison () Core () Clean Energy

APPLICANT BACKGROUND:

In November 1998, The City of Newark approved a redevelopment plan and a redevelopment area pursuant to the Local Redevelopment and Housing Law (NJSA 40:12A-1) as amended and supplemented. Included in this area is the project site at 842-868 Broad Street in Newark that will be developed by TDAF I Pru Hotel Urban Renewal Company, LLC ("TDAF"). TDAF is an LLC formed for the purpose of developing this project and is a partnership between Tucker Development Corporation, Marriott International, the New Jersey Devils, and Robert Finvarb Companies.

The project is a seven story building that will contain a 150 room limited-service hotel under the brand Courtyard by Marriott. Hotel rooms will be located on floors three through seven. The hotel lobby and amenities will be located on the second floor, complete with business meeting rooms, a food service area, a swimming pool and a fitness center. The building's first floor will be comprised of approximately 14,900 gross square feet of retail space anticipated to be occupied by small shop retail, service oriented businesses and restaurants.

The City of Newark is supporting the project and believes it will improve Newark's Downtown Core District Redevelopment Area by maximizing the use of a key property within the Redevelopment Area. The hotel and retail project will be connected to the Prudential Center, and it is within close proximity to Newark Penn Station, offering easy access to mass transit.

In addition to the Redevelopment Area Bond ("RAB"), the project will be financed through an Economic Redevelopment and Growth Grant approved by the Authority in October 2010 as well as a Recovery Zone Facility Bond to be issued by the Essex County Improvement Authority.

APPROVAL REQUEST:

Authority assistance will enable the applicant to finance a portion of the development of the 105,500 sq ft building through Redevelopment Area Bonds. The bonds will be repaid from Payments-In-Lieu-Of-Taxes ("PILOT" payments) to be made by the developer under a finance agreement with the City of Newark, pursuant to the Redevelopment Area Bond Financing Law.

FINANCING SUMMARY:

BOND PURCHASER: Prudential Insurance Company of America (Direct Purchase)

AMOUNT OF BOND: Not to exceed \$7,100,000 (Taxable)

TERMS OF BOND: 22 year term; Capitalized interest during construction period with sinking fund payments to begin one year from project completion; Fixed interest rate to be determined at issuance; Anticipated rate is 4.5%.

ENHANCEMENT: N/A

PROJECT COSTS:

Construction of new building or addition	\$24,821,500
Finance fees	\$3,937,155
Land	\$2,000,000

Professional Services	\$1,642,401
Contingency	\$1,327,131
Developers Fee	\$1,287,006
TOTAL COSTS	<u>\$35,015,193</u>

JOBS: At Application 0 Within 2 years 45 Maintained 0 Construction 175

PUBLIC HEARING: N/A

BOND COUNSEL: Wolff & Samson

DEVELOPMENT OFFICER: M. Abraham

APPROVAL OFFICER: K. McCullough



MEMORANDUM

TO: Members of the Authority

FROM: Caren Franzini
Chief Executive Officer

RE: Business Employment Incentive Program (BEIP) Scoring Amendment

DATE: December 1, 2010

Summary

The Members are requested to approve an amendment to the Authority's scoring criteria for the Business Employment Incentive Program (BEIP) to allow existing buildings that have been 100% vacant for 12 months in other areas of the State to receive the same incentive bonus points that Planning Areas (PA) 1 and 2 currently receive. PA1 and PA2 are areas which have existing infrastructure and sewer and water facilities that can support growth, according to the New Jersey State Development and Redevelopment Plan. They are, respectively, Metropolitan and Suburban Areas.

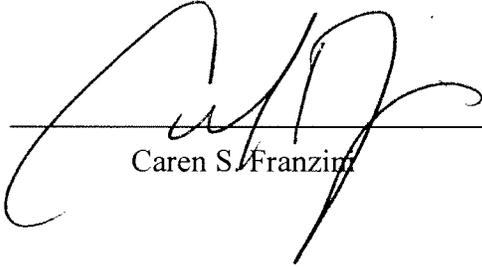
Background

BEIP currently provides bonus points above the 50% grant for any eligible project, when a project is located in a PA 1 or 2 area. These bonuses are 20% for projects which create up to 500 jobs, and 30% for those creating 500 or more jobs. The policy to provide bonus scoring for projects located in these areas stems from changes to the program in 2004 that were designed to promote "smart growth" in areas with existing infrastructure and sewer and water facilities that could support the expanded growth. However, many communities outside these areas contain buildings which sit vacant and underutilized and which can be put back into productive use with the assistance of this additional incentive. The infrastructure to support the use of these buildings also exists and, as such, does not contradict smart growth policy. As in urban areas, these buildings present a challenge to their municipalities, often needing improvement, posing potential security issues and placing downward pressure on surrounding property values.

The law creating BEIP requires the Authority to confer with the Office of Smart Growth (OSG) to ensure their concurrence with the Authority's scoring criteria. Accordingly, Authority staff have contacted OSG, now under the Lieutenant Governor's Office, and they are in agreement on the need for this recommended scoring change.

Recommendation

Based upon the foregoing, the Members are requested to approve an amendment to Authority's scoring criteria for BEIP allow existing buildings that have been 100% vacant for 12 months in other areas of the State to receive the same incentive bonus points that Planning Areas (PA) 1 and 2 currently receive. PA1 and PA2 are areas which have existing infrastructure and sewer and water facilities that can support growth, according to the New Jersey State Development and Redevelopment Plan. They are, respectively, Metropolitan and Suburban Areas.



Caren S. Franzini

Revised

Prepared by: Gina Behnfeldt



MEMORANDUM

TO: Members of the Authority

FROM: Caren S. Franzini
Chief Executive Officer

DATE: December 1, 2010

SUBJECT: Urban Transit Hub Tax Credit Program
Wakefern Food Corp.

REQUEST

The Members are asked to approve the Urban Transit Hub Tax Credit (UTHTC) Program application for Wakefern Food Corp. (“Wakefern”) as a tenant in a proposed new commercial project on an eligible site located at 600 York Street, Elizabeth (the “Project Site”). The total tax credit requested is up to \$58,000,000, which is a 100% tax credit taken over 10 years. However, because Wakefern may not create at least 200 new jobs during the 10 year period, pursuant to the requirements of the program, they may only qualify for an 80% tax credit of up to \$46,400,000 over 10 years. The total qualified cost of the project is \$65,385,000.

Wakefern was previously approved for a UTHTC in the amount of \$29,250,000 as a tenant in an unrelated transaction with the Newark Farmers Market which was approved at the August 10, 2010 EDA board meeting.

PROJECT DESCRIPTION

In anticipation of future growth in the supermarket industry, Wakefern has undertaken a review of its long-term location strategy for the tri-state area. They are seeking to expand their warehousing and distribution operations in New Jersey to accommodate their future growth. The project involves the construction of an approximate 524,000 square foot facility, the retention of 345 jobs in New Jersey and the creation of 350 new jobs over the next 20 years with a total of 695 new and retained jobs overall.

Elberon Development (“Elberon”) is the owner of the Project Site. Wakefern currently leases two distribution facilities from Elberon located on the Project Site, a 350,000 square foot facility for grocery products and a 300,000 square foot facility for produce products. Wakefern currently employs 345 employees at the Project Site. The Project Site could support the expected growth if they combine the Project Site with an adjacent parcel of land which is already owned by Wakefern. This option entails higher project costs and operational problems due to the fact the existing facility would need to be demolished and certain operations would have to be temporarily relocated for up to

3 years while the new facility is being constructed. Wakefern has been exploring alternatives to reduce the costs of this scenario which would make the Project Site a viable alternative.

The proposed project includes the demolition of the existing 350,000 square foot grocery product facility and the construction of a new approximately 524,000 square foot facility which would also have significantly higher clearance. Elberon will purchase the adjacent land currently owned by Wakefern to accommodate the construction of the larger facility and enter into a 25 year lease with Wakefern. The Project Site is currently served by rail, however, under their expansion plans, the rail capacity would be expanded and used more efficiently.

Wakefern has applied for the UTHTC as a tenant in a commercial project on an eligible site in Elizabeth. The Project Site has been verified to be in an eligible municipality as well as served by active freight rail which will be utilized by the businesses operating on the site. The proposed project would include the demolition of existing buildings and the construction of a new 524,000 square foot facility. The project would involve the retention of 345 full time employees at the Project Site after year 3 when the temporarily relocated employees are moved back into the new Project Site. If the Project Site is chosen, Wakefern expects to create 350 new jobs over the next 20 years. The total new and retained jobs to be located at the Project Site would be 695. Under the UTHTC rules, the applicant must employ at least 250 full time employees at the project location by January 13, 2016. Wakefern anticipates meeting this requirement upon issuance of the Certificate of Occupancy in the 1st quarter of 2013. The project is expected to create 821 temporary construction jobs.

The estimated total capital investment in the project for the Project Site is \$89,885,000. The eligible capital investment is \$65,385,000 which does not include land and taxes. Wakefern is eligible as a tenant under this program as their allocable share of the total leasable space is 100% which meets the requirement of the UTHTC program. Wakefern will be using their own equity to finance the tenant improvements. Elberon will be using a combination of equity, City of Elizabeth UEZ loan funds of \$2.5 million and Recovery Zone Facility Bonds of approximately \$43 million, pursuant to the American Recovery and Reinvestment Act, to complete their portion of the development costs. The Authority recommends approval of this project located at the Project Site for a 100% tax credit in an amount estimated at up to \$58,000,000. However, based on the results of the net benefit analysis attached hereto, Wakefern may not create at least 200 new jobs during the 10 year period, pursuant to the requirements of the program. Therefore, they may only qualify for an 80% tax credit of up to \$46,400,000 over 10 years.

Wakefern expects to execute a lease with Elberon in the 4th quarter of 2010. Completion of construction is expected in the 1st quarter of 2013.

Project Budget for the 524,000 SF Development

Item	Total Development Cost	Eligible Capital Investment
Land Cost	\$23,250,000*	\$0
Construction	\$39,250,000	\$38,000,000
Tenant Improvements, Equipment, Racking, Contingency	\$18,300,000	\$18,300,000
Soft Costs (including tenant furniture with <5 yr depreciation)	\$ 9,085,000	\$ 9,085,000
TOTAL	\$89,885,000	\$65,385,000

*It should be noted the land cost listed above includes both the new land being sold to Elberon of approximately 5 acres with an appraised value of \$2,375,000 and the land value of the currently-owned Elberon land attributed to this project which in total comprises approximately 40+ acres. As noted in the narrative above, Elberon will purchase the adjacent land from Wakefern and then construct the facility on both the Project Site and the adjacent land.

** It should be noted that the total development costs listed above do not include the cost of temporarily relocating the existing employees in the grocery produce facility to another facility for up to 3 years and then moving them back in to the Project Site. The proposed temporary facility to house the relocated employees is located close to the Project Site. The costs of relocation (not including disruption of business) are in the process of being calculated, however, these costs will not be included in the analysis of the UTHTC request and therefore, will have no effect on the award requested herein.

APPLICANT OWNERSHIP

Headquartered in Keasbey, New Jersey, Wakefern operates over 2.5 million square feet of grocery/produce and non-food warehousing. Cooperatively-owned by and built upon a foundation of independent retailers, Wakefern is uniquely positioned to meet the wholesale needs of the retail customers it serves. Wakefern's customers are concentrated in the densely-populated consumer markets in New Jersey, New York, Connecticut, Pennsylvania, Delaware, Maryland, Massachusetts and Rhode Island. The company's wholesale reach also includes international customers. Their executive staff include:

Mr. Joseph Colalillo - CEO

Mr. Dean Janeway - President & COO

Joseph Sheridan - EVP

NET POSITIVE BENEFIT ANALYSIS

Pursuant to the UTHTC rules, the Authority calculates the Net Positive Benefit of the project based on the new jobs to the State, unless the applicant submits material facts to demonstrate the "at risk" nature of any relocated employees. Wakefern has indicated that the 345 retained employees are not "at risk." Therefore, the Net Positive Benefit Analysis is based on the new jobs to be created. Wakefern anticipates they will create 350 new jobs over a 20 year period. The Net Positive Benefit Analysis takes into consideration the period of time it will take to create the 350 new jobs and calculates the Net Positive Benefit based on the "ramp-up" period for job creation. The Authority conducted the required Net Benefit Analysis for this project based on the creation of 128 new jobs, which is the number of jobs projected to be created in the tax credit period, (see chart below) at the Project Site and has found that the present value of the Net Positive Benefits to the State of New Jersey over a 20 year period for the project is \$63,800,000. This number is obtained by taking the annual Corporate Business Tax, Gross Income Tax, utility tax, property tax and indirect spillover tax revenues from earnings and expenditures for the new jobs only minus the net present value of local costs over 20 years of \$1.18 million. In addition, the project was awarded a 25% increase in net benefits and subsequent credit amount because the occupants are logistics-based businesses. The present value of this figure is reduced by the present value of all local and state grants to the project, resulting in the present value of the Net Positive Benefits to the State of New Jersey. With the Present Value of the UTHTC at a 6% discount rate being \$33.83 million, the present value of the Net Positive Benefits to the State of New Jersey is \$26.32 million. This meets the standard of being at least 110%

of the recommended grant assistance. The total project is thereby eligible for a tax credit amount not to exceed \$58,000,000 which is less than 100% of the Total Capital Investment.

PROJECTED JOB CREATION

<u>Job Type</u>	<u>Amount of Jobs</u>	<u>Average Salary</u>
Warehousing & Storage	90	\$37,297
Truck Transportation	32	\$41,687
Administrative & Support	6	\$26,792
TOTAL	128	

UTHTC CREDITS APPROVED TO DATE

As of August 10, 2010, a total of \$196,449,645 of Commercial UTHTC Credits and \$131,645,557 of Residential UTHTC Credits have been approved for a total of \$328,095,202 for the UTHTC program.

RECOMMENDATION

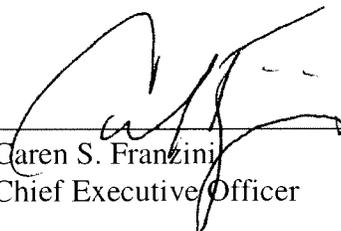
Staff has reviewed the application for consistency with the Act and rules implementing the UTHTC Program (N.J.A.C:19:31-9) and recommends approval of the application for a tax credit in an amount estimated at up to \$58,000,000. Ten percent of this amount will be issued annually over ten years. EDA will provide the applicant with an approval letter for the total amount of the credit.

Pursuant to the rules governing the program, the project will need to meet certain milestones for within 12 months of approval in order to maintain the project's credit approval.

These milestones include:

- 1) site control;
- 2) site plan approval;
- 3) executed lease between the developer/owner of the projection location and Wakefern; and
- 4) other project specific items which may be added

Upon project completion, the Authority shall issue a tax credit certificate based on the final qualified costs, not to exceed the approved amount. The tax credit certificate shall be issued for 100% of the tax credit award. However, the actual tax credit amount may be adjusted on an annual basis to 80% of the tax credit award, based on the actual job creation for that tax credit year. The tax credit certificate shall indicate that the applicant may take one tenth of the total credit annually over ten years when accompanied by a letter issued by EDA indicating the project is compliant with program guidelines.



Caren S. Franzini
Chief Executive Officer

NJEDA Economic Impact Model		
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County Number	20	
Address		
County	Union	
Ongoing Jobs(Direct)	128	Does not include relocated jobs
One Time Jobs(Direct)	821	
State & Local Direct Ongoing		
	Consumer Goods	Select Industry Sector
Sales Tax	\$0.00	@7%
Corporate Income Tax (CBT)	\$1.15	@9%
Gross Income Tax	\$0.19	@4%
Utility Tax Revenue	\$0.05	
Property Tax	\$0.65	Figure provided by applicant
Direct Ongoing Annual Taxes	\$2.05	a
State Indirect Ongoing		
Annual Corp Spending	\$32.77	Direct Output Composite
Final Demand Output Multiplier	1.50x	Direct Output Composite Multiplier
Indirect Annual Spending	\$16.49	Direct Output Composite*(Direct.Mult.-1)
At 3.5 % Tax Rate	\$0.58	b
Annual Payroll	\$4.84	Direct Earnings Composite
Indirect Effect Earnings Multiplier	1.38x	Direct Earnings Composite Multiplier
Indirect Earnings	\$1.84	Direct Earnings Composite*(Indirect.Mult.-1)
At 4% Tax Rate	\$0.07	c
Indirect Ongoing Annual Taxes	\$0.65	b + c
Total State Ongoing Net Benefits		
Annual Net Benefit	\$2.70	a+b+c
Cumulative Net Benefit (20yrs w/ 3% yearly inflation)	\$93.01	
Present Value @6%	\$44.84	d
One Time		
Construction Value/Cost Approach Value	\$110.0	\$110,000,000 per Development Costs
Direct One Time Taxes on Spending	\$3.9	
Direct Construction Multiplier	1.56x	
Indirect One Time Spending	\$61.23	
Spending Tax Rate	3.5%	
Ind One Time Taxes on Spending	\$2.1	
Assumed Portion of Const. on Labor	50%	input
Dir One Time Earnings	\$5.02	
Earnings Tax Rate	5%	input
Dir One Time Taxes on Earning	\$2.8	
Direct Effect Earnings Multiplier	1.48x	
Indirect One Time Earnings (50% of Construction)	26.67	
Earnings Tax Rate	5%	input
Ind One Time Taxes on Earnings	\$1.3	
Total One Time Tax Benefits	\$6.2	e
Total State Benefits		
Total One Time Tax Benefits	\$6.2	e
Total State Ongoing Benefits (PV @ 6%)	\$44.8	d
Total Benefits	\$51.07	d+e
Total Benefits with Adjustments from Regulations	\$63.8	Freight or Urban Grocery Store Abated
Adjustment Test 1		
Total Qualifying Costs	\$70.0	
Total Qualifying Costs at 110%	\$77.0	
Max Net Benefit with Adjustments	\$63.8	f
Maximum HUB Award	\$58.0	Award adjusted
Adjustment Test 2		
Switch		
Freight or Urban Grocery Store Site? (Yes=1, No=0)	1	
Adjustment Test 3		
Is the Capital Investment => \$50M?	Yes	
Are new or at risk jobs => 250	Yes	
This transaction meets minimum thresholds		

Previous Local & State Incentives		
Max Net Benefit with Adjustments	\$63.8	f
Less:		
Local Burden (NPV @ 6% over 20 years)	\$1.18	g
City UEZ Loan	\$2.50	h
HUB (NPV @ 6% over 10 years)	\$33.83	d+e-f-g-h
PV of Net Benefits to NJ	\$26.32	



MEMORANDUM

TO: Caren S. Franzini, Chief Executive Officer
Members of the Authority

FROM: Lisa Coane
Hearing Officer

DATE: December 1, 2010

SUBJECT: Technology Business Tax Certificate Transfer Program - Appeals

Background:

At the September 16, 2010 Board Meeting, the Members considered 89 benefit requests from companies to participate in the Technology Business Tax Certificate Transfer Program. A total of 68 (76.4%) benefit requests were recommended for approval and 21 (23.6%) benefits requests were disapproved. The number requests disapproved was significantly less in number and percentage than in 2009 when disapprovals totaled 36 or 31.8% of the total submissions. Based on the Board's approval of the 68, estimated benefits were calculated to be \$441,000. If the Board approves some or all of the recommendations to approve companies previously disapproved, the benefit amount will be recalculated based on the total new number of approvals. Because the number of over turned decisions on those companies previously disapproved is limited to those who appealed, the reduction to the amount of benefit received by the companies is expected to be de minimus.

In past years, the New Jersey Commission on Science & Technology reviewed each application to ensure the applicants met the definition of either Biotechnology Business or Technology Business (and certain other factors that are no longer requirements of the Program). The new Statute placed this review onto the Authority for the first time. As previously reported to the members, I have been asked to fulfill the role of Hearing Officer to review the appeals, and have completed that review of the appeals with assistance from Business Development Venture staff not involved in the initial application review process and legal guidance from the Attorney General's Office.

Following the September Board meeting, the 21 companies that were disapproved were sent written notice of the Board's action along with the reasons for the disapproval. Each company was also advised that they were permitted to appeal the decision by providing clarifying information to the EDA within 20 business days. Of the 21 disapproved, 13 filed appeals by the appeal deadline of October 6, 2010.

Over the past six weeks, each appeal has been reviewed and in some instances, additional clarifying information has been requested. Based on the review of the appeals submitted by the applicants and the analyses prepared by the initial review team from EDA, I am recommending that the following 9 companies be approved:

Critical Links, Inc.

Based on clarifying information provided by the applicant that the company was not a spin off company from a company formed in 1998 (which pursuant to program guidelines would have required that the company employ ten (10) employees at the time of application), but was formed in 2005 (which requires that the company employ a minimum of five (5) employees at the time of application), Critical Links met the employment requirement and is therefore recommended for approval.

Intra, Inc.

Based on clarifying information provided by the applicant that supports that it develops and designs computer software, a defined qualifying business listed in the definition of a technology business in N.J.S.A. 34:1B-7.42(a)(b)(5) and employs highly educated and highly skilled employees, Intra is recommended for approval under the Program.

MDx Medical, Inc.

Based on clarifying information provided by the applicant that supports that it develops and designs computer software, a defined qualifying business listed in the definition of a technology business in N.J.S.A. 34:1B-7.42(a)(b)(5) and employs highly educated and highly skilled employees, MDx is recommended for approval under the Program.

Reldata

Based on clarifying financial information provided by the applicant to translate its parent company's financial statements from the German language to English, staff reviewed the company's financial statements and confirm that Reldata met the requirement of having reported two consecutive years of operating losses as required under N.J.S.A. 34:1B-7.42(a)(b)(5). Reldata is recommended for approval under the Program.

RightAnswers, Inc.

Based on clarifying information provided by the applicant that it has developed, designed and copyrighted its software suite of programs and continues to develop and enhance those programs in house using the technological expertise of its Chief Technology Officer, RightAnswers has the definition of being qualified technology business as required under N.J.S.A. 34:1B-7.42(a)(b)(5) and is recommended for approval.

Skyzone Entertainment, Inc.

Based on clarifying information provided by the applicant that supports that it owns Protected Proprietary Intellectual Property ("PPIP") which it acquired under in July 2008 for a remote monitoring system and that it employs a highly educated or highly skilled individual in its workforce, Skyzone qualifies as a technology business under N.J.S.A. 34:1B-7.42(a)(b)(5) and is recommended for approval under the Program.

Timesight Systems, Inc.

Based on clarifying information provided by the applicant that supports that the Final Rejection of the company's patent pending is still under review and therefore pending, Timesight has evidenced that it has met the requirement of being in the process of securing protected proprietary intellectual property ("PPIP") as required under N.J.A.C. 19:31-12.2 and is recommended for approval.

Vidyo, Inc.

Based on clarifying financial information provided by the applicant that validates that it met the requirement of having reported two consecutive years of operating losses as is required under N.J.S.A. 34:1B-7.42(a)(b)(5), Vidyo is being recommended for approval under the Program.

Xipto, Inc.

Based on clarifying information provided by the applicant that it has patents pending for its digital voice product, the application of that product is unique and that it employs highly skilled/highly educated employees as is required under N.J.S.A. 34:1B-7.42(a)(b)(5), Xipto is being recommended for approval under the Program.

The other four (4) applicants have not demonstrated that they meet the eligibility criteria of the Program and are being recommended for disapproval. Brief summaries of the reasons they do not meet the eligibility requirements of the Program are set forth below with a more detailed analysis attached.

EveresTV, Inc.

EveresTV was rejected because it failed to demonstrate it owns, has filed for, or has a License to use protected, proprietary intellectual property (“PIIP”), that its primary business was not the provision of a scientific process, product or service, that it failed to employ a combination of highly educated and/trained managers and did not employ the required number of employees ten (10) pursuant to N.J.S.A. 34:1B-7.42.

In its appeal, Everes successfully demonstrated it employed a sufficient number of employees at the time of application and that employees on are highly educated. Everes also evidenced that it had acquired PIIP on June 24, 2010, but it did not support that its primary business met the definition of being a technology company pursuant to N.J.S.A. 34:1B-7.42(a)(b)(5). As a result, it is recommended that EveresTV be denied under the Program.

PopSolutions, Inc.

PopSolutions was rejected because it did not demonstrate it has, owns, or has filed for, or has a License to use PIIP, did not validate that its primary business is the provision of a scientific process, product, or service and did not evidence that it employs a highly educated/highly skilled workforce that use the technology as defined in N.J.S.A. 34:1B-7.42(a)(b)(5).

In its appeal, POP asserted that it owns and has a license to use PIIP by attaching a Copyright Registration for PingWizard and a License, Resale and Support Agreement evidencing that it is has exclusive rights to market that technology in North America. Because the document provided is a license to resell product to end users and POPSolutions did not develop, design, or have PIIP for its software, it is recommended that POPSolutions be denied under the Program.

Timecruiser, Inc.

Timecruiser was rejected because it did not demonstrate its primary business is the provision of a scientific process, product, or service, did not evidence that it employs some combination of highly educated and/or trained managers and workers in NJ and because it reported positive Net Operating income in either of last two (2) years.

Timecruiser asserted in its appeal that its cloud computing technology designed by company is unique and provided evidence of PIIP in its original application. It continues to sell the products covered by those patents but is now more focused in providing consulting services than developing and designing new products. Timecruiser also sold some of its patents to other end users. Timecruiser did not respond or evidence however that it employs high educated and/or trained managers in New Jersey in its appeal, which suggests that the company is not continuing to research, design and develop new software which is required to meet the definition of being a technology company as defined in N.J.S.A. 34:1B-7.42(a)(b)(5). Timecruiser did provide sufficient evidence to support that the positive income shown on its financial statements was ‘other income’ earned from a one time sale of patents, not from normal business operations.

Because Timecruiser’s primary business does not meet the definition of technology business it is recommended that Timecruiser be denied under the Program.

Trey Resources, Inc.

Trey was rejected because it did not demonstrate it has, owns, or has filed for, or has a License to use protected, proprietary intellectual property (“PIIP”), did not evidence that it employs highly educated/highly skilled workers that use the technology as required under N.J.S.A. 34:1B-7.42(a)(b)(5) and did not evidence that it employed 10 full time as of June 30, 2010, which is a requirement of the Program for companies that have been in operation for greater than five (5) years.

In its appeal, Trey asserted that it publishes and sells its proprietary software, MAPADOC, through a network of software resellers to facilitate computer to computer communication, but Trey did not develop the software and does not have a license to use it. SWK Technologies, Inc., a separate entity that Trey has 80% ownership interest in holds the license to MAPADOC. As a result, Trey did not produce evidence of ownership, pending application, or license of PPIP. Trey also did not provide evidence that its employees are highly educated/highly skilled and did not employ 10 employees as is required under the Program at the time of application. As a result, it is recommended that Trey Resources be denied under the program.

Recommendation:

As a result of careful consideration of the above appeals in consultation with the Attorney General's Office, the following appeals are recommended for approval: Critical Links, Inc., Intra, Inc., MDx Medical, Inc., Reldata, RightAnswers, Inc., Skyzone Entertainment, Inc., TimeSight Systems, Inc., Vidyo, Inc. and Xipto, Inc.. The following appeals are recommended for denial: EveresTV, Inc., PopSolutions, Inc., Timecruiser, Inc., and Trey Resources, Inc.

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a horizontal line extending to the right.

Prepared by: Lisa Coane, Hearing Officer



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Joao Carreira
Critical Links, Inc.
694 Route 46 Suite 104
Fairfield, New Jersey 07004

Dear Mr. Carreira:

I am in receipt of your September 23, 2010 appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Critical Links had fewer than the required minimum number of employees as of June 30, 2010.

Legal Citation:

The relevant legal provision is the requirement that Critical Links has at least five full-time employees working in the State of New Jersey as the company has been incorporated for more than three years but less than five years as required by N.J.S.A. 34:1B-7.42(b).

Discussion:

As indicated in the attached memorandum by John Rosenfeld whose team reviewed your application to the Program, the primary rationale for the denial was that the original parent company, Critical Software, had been operating for greater than five (5) years [since 1998] and therefore Critical Links, Inc. was required to employ ten (10) full time employees, not five (5) employees at the time of application to the Program as required by N.J.S.A. 34:1B-7.42(b).

In response, you clarified that Critical Links, Inc. was not a "spin off" company from Critical Software, but rather it was an employee stock ownership company formed in 2008 and is 100% owned by Critical Links, SA, a company that was formed in 2006. Program Services responded to your clarification letter on October 15, 2010.

Conclusion:

As Hearing Officer designated to review the appeals, I have reviewed the appeal submitted in this matter and conclude that because the company was not incorporated until 2008 and it is 100% owned by a company formed in 2006, it has been operating for less than five (5) years and is therefore required to have five (5) employees at June 30, 2010 instead of ten (10) employees if earlier incorporated as originally understood. Critical Links has validated that it had five (5) employees at June 30, 2010, so I will be

Joao Carreira
Critical Links, Inc.
November 23, 2010
Page 2

recommending approval of your application to the EDA Board at its special meeting on December 1, 2010 at 10:30 am.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 18, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to September 23, 2010 Appeal by Critical Links, Inc.

We have received and reviewed the September 23, 2010 appeal by Critical Links, Inc. (Critical Links) of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert Critical Links' appeal should be **accepted** because it does explain how Critical Links meets the minimum New Jersey employees.

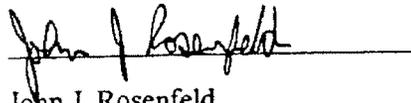
We previously denied Critical Link's application because Critical Links did not have the minimum number of Full-Time Employees in New Jersey (who work at least 35 hours a week) on June 30, 2010. Critical Links stated that there were 5 Full-Time employees in NJ as of 6/30/2010 and provided the certificate of incorporation of Critical Links, Inc. dated 1/18/2008. The applicant is required to have a minimum number of full-time employees in New Jersey based on the number of years since earliest incorporation (including predecessor entities – this is not in the statute or regulations, but is a policy interpretation to be consistent with other EDA programs). For a company incorporated more than three years but less than 5 years, a minimum of 5 Full-Time Employees must be employed in NJ. On the surface it appears that Critical Links meets the job requirement. However, Critical Links had been described as a "spin-off" of Critical Software and, on the Critical Software website, the timeline indicates that Critical Software itself has been in existence since 1998. The minimum number of jobs required for a company in existence for more than 5 years is 10 full-time employees. Also, it appears that Critical Links' main technology which they registered a copyright on, was originally developed by Critical Software. Therefore the application of Critical Links would not meet the minimum job requirement since the earliest date of incorporation would be the originating company's (Critical Software) date of incorporation in 1998.

Critical Links in its appeal response reiterated that the company was incorporated in US in 2008, clearly meeting the minimum job requirement. Further, Critical Links is 100%

owned by Critical Links SA, incorporated in Portugal in 2006 and which would also meet the job requirement.

Critical Links also explains that while Critical Links SA was formed by former employees of Critical Software, there are no predecessor companies to Critical Links, SA. Critical Software remains a separate Portuguese corporation and is not affiliated with Critical Links, Inc. other than sharing a few of the same venture capitalists as investors.

In conclusion, Critical Links' appeal should be accepted because it explains how Critical Links meets the minimum job requirements.

A handwritten signature in black ink, appearing to read "John J. Rosenfeld", is written over a horizontal line.

John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Jeffrey Feldman
EveresTV Inc.
One Executive Drive Suite L10
Ft Lee, New Jersey 07024

Dear Mr. Feldman:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that EveresTV failed to demonstrate that it met the definition of being a technology company as required by N.J.S.A. 34:1B-7.42(a) (b) (5).

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at N.J.A.C. 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated and/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

Discussion:

As indicated in the attached memorandum prepared by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that EveresTV did not meet the definition of a technology company were 1) EveresTV failed to demonstrate it owns, has filed for, or has a License to use protected, proprietary intellectual property ("PPIP"); 2) EveresTV's primary business was not the provision of a scientific process, product or service and; 3) EveresTV failed to employ a combination of highly educated and/trained employees managers or workers in New Jersey. Omitted from the September 16, 2010 rejection letter was that EveresTV failed to employ On 2nd line from bottom suggest changing the ten (10) employees required for a company incorporated for more than five (5) years pursuant to N.J.S.A. 34:1B-7.42.

Jeffrey Feldman
EveresTV Inc.
November 23, 2010
Page 2

Subsequent to receiving the rejection notice, EveresTV participated in a September 27, 2010 conference call with John Rosenfeld and Kevin McCullough from EDA and Peter Berger, patent attorney to discuss deficiencies in the application.

Between September 18, 2010 and November 16, 2010, I received and responded to 20 emails from you as detailed below. The content and discussion in the initial emails that were sent between September 18, 2010 and October 5, 2010 were to ensure that the appeal was received in advance of the October 6 deadline. I confirmed through a series of responses that the package was received by the deadline.

On October 25, 2010, you sent an email requesting that we meet to discuss the appeal. In my reply, I explained that, as permitted under the regulations to the program, I had determined that I would limit in person hearings to those instances where clarity was needed to explain the content of the appeal. Since the information you provided was clear, I suggested that it would not be necessary for us to meet.

On November 3, 2010, you responded by email (with cc: to Assemblywoman Voss and EDA CEO, Caren Franzini) that you were concerned with the content of my October 25, 2010 email and again asked to meet to discuss the appeal. In that email you also shared that approval under the Program was critical for EveresTV to continue operating as a business. I responded to the email, reiterating that meetings would only be held to discuss clarity of materials submitted and the package that you sent was complete so a meeting would not be necessary. I further shared that while I appreciated your concerns, approvals under the Program were only to be granted to those companies that met the statutory guidelines.

On November 4, 2010, you responded to my email to share your concern about the need to support technology and the overall economy in New Jersey and to advise that you would be attending the EDA's Board meeting on November 9, 2010. I responded by email on November 4, 2010 that these projects would not be discussed at that meeting.

In addition to the emails received, I received a voice mail from Assemblywoman Voss on October 29, 2010. Caren Franzini, CEO of EDA returned that telephone call to the Assemblywoman on November 1, 2010. On October 20, 2010, I received a letter of support from Congresswoman Nita M. Lowey, 18th District New York supporting your project.

Beginning on November 16, 2010 and continuing on November 17, 2010, emails were exchanged between EDA and EveresTV to clarify the number of full time employees employed by EveresTV on June 30, 2010. Discussion in those emails further concentrated on whether James Szegulia, a full time employee of the FCC in Maryland was also a full time employee of EveresTV.

In its appeal, EveresTV asserts that it acquired PPIP on June 24, 2010, and that the acquisition of PPIP, together with a joint venture agreement executed with, Genergy/PowerBox, Inc. meets the requirements under the statute cited above. EveresTV further asserts that it has highly educated, highly trained employees and has submitted letters from those individuals validating that they have advanced doctoral degrees. Finally, EveresTV confirms by email that James Szegulia works an average of 31-40 hours weekly at the company to support that he is a full time employee pursuant to the statutory definition for the Program.

Jeffrey Feldman
EveresTV Inc.
November 23, 2010
Page 3

I have reviewed all the documentation submitted with this matter and conclude that while EveresTV did submit a copy of PPIP that it acquired on June 24, 2010 and had a joint venture agreement with Genergy/PowerBox, Inc. in advance of acquiring the PPIP, it is difficult to conclude that a company acquiring a patent six days before the submission deadline of June 30, 2010 would be able to change its primary business, as required under the Act, from broadband services, which is not a technology business, to a technology business whose primary business is the development, testing or transfer of scientific knowledge or of a product.

I accept that several of EveresTV employees are highly educated. As employees working for a broadband services company, however, they do not meet the requirements of the rest of the definition of technology business, which requires that these employees undertake research or other processes to promote an undertaking that qualifies as a technology company.

It is also difficult to concur that Mr. Szegulia works full time at the FCC in Maryland and also is a full time employee of EveresTV in New Jersey. Since, however, it is remotely possible that this individual can maintain this level of employment at two distinct organizations in two different states; this individual can be included to fulfill the requirement that EveresTV had ten (10) full time employees at June 30, 2010, which is a requirement for all companies operating for greater than five (5) years, N.J.S.A. 34:1B-7.42.

In summary, while EveresTV did evidence that it owned PPIP and employed 10 employees at June 30, 2010, the company's primary business as of application, despite its prior joint venture agreement, was still broadband services, which does not qualify as a technology business pursuant to the citation above.

Conclusion:

Based on the foregoing, I am recommending that the appeal of EveresTV, Inc. be denied at the EDA special Board meeting to be held on December 1, 2010 at 10:30 a.m.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Goane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 18, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 1, 2010 Appeal by EveresTV, Inc.

We have received and reviewed the October 1, 2010 appeal by EveresTV, Inc. of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert EveresTV's appeal should be **rejected** because it does not explain how EveresTV meets the statutory definition of a Technology Company and for an additional reason not part of the original rejection – failing to employ the minimum number of full-time employees in New Jersey.

We previously denied EveresTV's application because it did not explain how EveresTV qualifies as a Technology Company under this Program:

- EveresTV did not demonstrate that it owns, has filed for, or has a License to use PPIP on its Patents (It had provided proof of ownership of 2 registered copyrights on software which was acknowledged as fulfilling the PPIP requirement but with EveresTV's appeal hinging almost entirely on the Patents, proof of ownership of the patents was required). EveresTV submitted 2 patents (#7,069,167 and #7,668,671) along with 2 patent applications (#12/779,344 and #11/013,108) and 2 provisional patent applications (#1756.013 and #1756.014) with no evidence that they were owned by EveresTV.

In its appeal, EveresTV provided an Assignment of Invention and an Asset Purchase Agreement, dated June 24, 2010, for most of the aforementioned PPIP. **Please note, patent #7,668,671 does not appear to be part of the PPIP acquired by EveresTV.** The Asset Purchase Agreement has three features that were unexpected when attempting to demonstrate ownership/control. First, EveresTV paid no money for the assets purchased, as the seller took back a note for the \$100,000 purchase price. Second, for the 10 years following the closing date, all material decisions relating to the development of the assets will be made by a majority vote of a 3 member

committee where the seller appoints 2 of the members and EveresTV appoints 1 member. Third, EveresTV is required to make 4 future payments to the seller called Minimum Revenue Share payments. Each of the 4 payments will be for \$100,000 and will be made on June 30th of 2012, 2013, 2014, and 2015. In the event EveresTV does not pay all of the Minimum Revenue Share payments, the assets revert back to the seller.

The agreements provided may demonstrate ownership of some of the patent/patent applications sent in with the application but no evidence of ownership for patent #7,668,671 was provided.

- EveresTV did not demonstrate that its primary business is the provision of a scientific process, product, or service. EveresTV does not meet this as EveresTV's primary business is the provision of broadband services to multi-tenant facilities (It has no PPIP on these services) which does not entail the use of a rigorous analytical method. The patent/patent applications that EveresTV acquired were acquired so recently (June 24, 2010) that there is no way that they could have become EveresTV's primary business by June 30, 2010 (6 days after purchase). Similarly, the software for which copyrights were registered, are for a small aspect of EveresTV's business out in Minnesota.

In its appeal EveresTV provided certain slides and attachments that had previously been reviewed as part of the original denial. The new information presented with the appeal was three letters from technology professionals certifying that EveresTV meets the Statutory definition of Technology Company. None of the three letters convincingly describe how EveresTV meets the Statutory definition of Technology Company; so much so that, after reading the letters, my first thought was to wonder if any of the writers had been provided a copy of the Statutory definition.

Because EveresTV did not provide evidence its primary business is the provision of a scientific process, product, or service, we request that EveresTV's appeal be rejected.

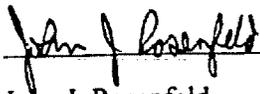
- EveresTV also failed to demonstrate that its highly educated or trained managers and workers, or both, employed in this State use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. Highly educated or trained means that the company has workers or managers with education or experience above the norm. And for any equipment, process, or knowledge to be sophisticated, it must be devoid of simplicity and refined. EveresTV does not meet this requirement as the software which it has registered copyrights on is for content management and sales data neither of which is sophisticated or scientific. The patents that were submitted were for passive boxes that measure electricity consumption and,

if real-time pricing is available, multiply the electricity used by the cost to display the real-time cost to the electricity being used. A Stage 2 was also mentioned whereby the Powerbox may be able to control the electricity usage of appliances but no indication was given as to the status of Stage 2 nor was this claim part of any of the PPIP documentation submitted.

Because EveresTV did not provide any evidence that it does anything sophisticated or scientific, we request that EveresTV's appeal be rejected.

- Additionally, with its application, EveresTV provided, in Exhibit C3, a list of its full-time employees that work in New Jersey showing that it had exactly the minimum required number of full-time employees working in New Jersey (10 employees). In its appeal, EveresTV indicated that one of the full-time employees working in New Jersey listed in Exhibit C3 actually lives in Maryland and works full-time for the FCC in Maryland. While in its appeal, EveresTV indicates that this employee puts in a few hours each day working for EveresTV (3 – 4 hours) and several hours on each weekend day (8 hours each day), the maximum amount of time yielded under this scenario is 32 hours per week which does not meet our minimum requirement of 35 hours per week to be considered full-time. Also, the new minimum full-time employment requirement necessitates that each full-time employee actually work in New Jersey. **As this employee does not work the required minimum number of hours to be considered full-time nor does this employee work in New Jersey, EveresTV should also be rejected for failing to meet the minimum full-time employment in New Jersey requirement which was not part of the original rejection.**

In conclusion, EveresTV's appeal should be rejected because it does not explain how EveresTV meets the statutory definition of a Technology Business and for an additional reason not part of the original rejection – failing to employ the minimum number of full-time employees in New Jersey.



John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Valerie Rainey
Intra, Inc.
1 Upper Pond Road
Parsippany, New Jersey 07054

Dear Ms. Rainey:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Intra failed to demonstrate that it met the definition of being a technology company as required by N.J.S.A. 34:1B-7.42(a) (b) (5).

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at N.J.A.C. 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated and/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that Intra did not meet the definition of a technology company were: 1) Intra's primary business was not the provision of a scientific process, product or service and 2) Intra failed to employ a combination of highly educated and skilled employees that use sophisticated scientific research or knowledge to discover, develop or test a product or service.

In its appeal, Intra asserts that it meets the definition because its employees design, develop, test and deliver their own sophisticated software solutions for global e-commerce to ocean carriers and their customers. This constitutes a scientific product and service. In its appeal, Intra further asserts that it has filed patents since its inception in 2000 to support that its technological solutions provided to customers. Intra indicates that it has invested over \$10 million in current funding to research and development of

Valerie Rainey
Intra, Inc.
November 23, 2010
Page 2

this software through database research and has received several notices of allowance for new patents in April/May 2010 supporting this technology. Finally, Intra asserts that 41 of its staff of 105 employees have advanced degrees in engineering, mathematics, physics and computer science, all skills applied to this business.

Based on my review, I believe that Intra has produced sufficient evidence that it has met the definition of being a technology company because it has designed and developed patented computer software that it continues to advance through research and development by highly educated professionals.

Conclusion:

For the above reasons, I will be recommending approval of your application to the EDA Board at its special meeting on December 1, 2010 at 10:30 a.m.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 18, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 6, 2010 Appeal by Intra, Inc.

We have received and reviewed the October 6, 2010 appeal by Intra, Inc. of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert Intra's appeal should be **rejected** because it does not explain how Intra meets the statutory definition of a Technology Company.

We previously denied Intra's application because it did not explain how Intra qualifies as a Technology Company under this Program:

- The primary business of the applicant must be the provision of a scientific process, product, or service. A scientific process by definition is a rigorous analytic method. Intra does not meet this as Intra's primary business appears to be enabling companies that have shipping needs to arrange for their cargo to be shipped. Intra appears to utilize software previously developed which is changed or enhanced to meet the needs of its clients. This is not a scientific process and involves utilizing a software portal developed by Intra. Portals are generally a combination of other technologies and softwares when combined are gateways to other technologies. While these other technologies may be sophisticated, the portals tend to be non-complex web interfaces and therefore do not rise to the level of being scientific.

In its appeal Intra states it was founded to provide technological solutions to recurring problems in the international cargo shipping industry. It described its technological approach as "never before seen" in the container shipping industry. Intra states that inventors and engineers developed and continue to develop technological solutions to booking and tracking problems. New technological solutions are based on continued research into database interoperability, workflow analysis, and in some instances, technological

matching algorithms. Intra also counters that software solutions are created using both Agile and Waterfall development processes as a scientific approach to discovery, design, development, testing and productions. These are rigorous methodologies cited by the National Institute of Standards and Technology and the IEEE (world's largest organization of the advancement of technology). Intra also states it has consistently invested in research and development concerning technology with current funding of \$10 million. Intra also asserts it uses sophisticated production equipment to support delivery of its software solutions, hosting its operations in its NJ data center which is governed in accordance with policies and processes set by international standards. Although Intra has cited proper technology processes and is creative, it does not successfully explain a sophisticated or scientific process, more to the contrary.

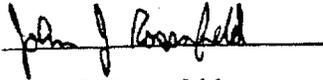
Because Intra's appeal did not provide compelling evidence that its portal is a provision of a scientific process, product, or service, we request that Intra's appeal be rejected.

- Intra also failed to demonstrate that highly educated/trained workers use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer, or manufacture a product or service. Highly educated or trained means that the company has workers or managers with education or experience above the norm. And for any equipment, process, or knowledge to be sophisticated, it must be complex and refined. In its application, Intra completed Exhibit C (3) – NJ Full-time Employee Log which includes job titles and annual salaries. The Log provides evidence that Intra does employ highly educated/trained workers such as systems analyst, software engineers as well as directors, managers, sales and consulting titles. However in its application, Intra asserts
- that its technology is based on database interoperability, workflow analysis, and technological matching algorithms and that it uses sophisticated production equipment. However there is no evidence or descriptions to substantiate its assertions. Thus the terms by themselves do not connote sophisticated software engineering.

In its appeal, Intra indicated it employs 105 highly educated employees having 90 undergraduate degrees and 41 advanced degrees with concentrations in engineering, mathematics, physics and computer science. Again they state that Intra continues to employ and recruit software professionals skilled in developing new technology approaches to defining business processes and creating global multi-platform business applications. Again in its appeal, Intra does not connect the highly educated/trained employees to a scientific or sophisticated process.

Because Intra does not explain how highly educated/trained workers use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service, we request that Intra's appeal be rejected.

In conclusion, Intra's appeal should be rejected because it does not explain how Intra meets the statutory definition of a Technology Company.

A handwritten signature in black ink, appearing to read "John J. Rosenfeld", is written over a horizontal line.

John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Mitchel Rothschild
MdX Medical, Inc. (DBA Vitals, Inc.)
1200 Wall street West
Lyndhurst, New Jersey 07071

Dear Mr. Rothschild:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that MdX Medical Inc. failed to demonstrate that it met the definition of being a technology company as required by N.J.S.A. 34:1B-7.42(a) (b) (5).

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at N.J.A.C. 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated and/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that MdX did not meet the definition of a technology company were: 1) MdX's primary business was not the provision of a scientific process, product or service; and 2) MdX failed to employ a combination of highly educated and skilled employees that use sophisticated scientific research or knowledge to discover, develop or test a product or service.

In its appeal, MdX asserts that it meets the definition because it has filed for patents for its data mining software that allows users to extract data from public websites. The company also has filed patents for its artificial intelligence method (a defined discipline of computer science) of matching patients to doctors and for its ability to rate qualification of health care providers. The company also states

Mitchel Rothschild
MdX Medical, Inc. (DBA Vitals, Inc.)
November 23, 2010
Page 2

that its proprietary technology has a variety of algorithms that evaluate the quality of medical professionals on 64 different attributes. MdX also cites that 50% of its staff are IT engineers, data engineers and web designers, all of whom are believed to have met the definition of highly skilled/highly educated employees that have designed the data mining, quality benchmarking and intelligence matching services in house.

Based on my review, I believe that MdX has produced sufficient evidence to overturn the initial denial because it appears to have met a portion of the cited definition (developing of computing hardware and software) and highly skilled work force.

Conclusion:

For the above reasons, I will be recommending approval of your application by the EDA Board at its special meeting on December 1, 2010 at 10:30 a.m.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 15, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 6, 2010 Appeal by MdX Medical.

We have received and reviewed the October 6, 2010 appeal by MdX Medical of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert MdX Medical's appeal should be **rejected** because it does not explain how MdX Medical meets the statutory definition (as clarified in the regulations) of a Technology Company.

We previously denied MdX Medical's application because it did not explain how MdX Medical qualifies as a Technology Company under this Program:

- MdX Medical did not demonstrate that the primary business of the applicant is, as clarified in the Program regulations, "the provision of a scientific process, product, or service". MdX Medical does not meet this as MdX Medical's primary business revolves around entering information on doctors into a database and enabling patients to search the database for doctors having the characteristics deemed important to the patient. The mere use of a database is not tantamount to the use of a scientific process, product or service as it does not inherently require a rigorous analytical method.

In its appeal, MdX Medical stated its main business is to use data mining, cleansing and personal matching technology, which they assert are cutting edge data engineering inventions that are redefining the way people identify high quality medical providers. Data mining may refer to merely clerical data searches, data cleansing could entail simply manually reformatting data, and personal matching technology may simply use unscientific trial and error searches performed by the user. Though MdX Medical asserts mass scale innovative data mining and cleansing and high-volume data analysis, it does not provide sufficient description of each to assess whether such methods are developed using rigorous or analytical software engineering.

Because MdX Medical did not provide evidence that the primary business of the applicant is the provision of a scientific process, product, or service, we request that MdX Medical's appeal be rejected.

- MdX Medical also failed to demonstrate that it employs highly educated/trained workers who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer, or manufacture a product or service. Highly educated or trained means that the company has workers or managers with education or experience above the norm. And for any equipment, process, or knowledge to be sophisticated, it must be devoid of simplicity and refined.

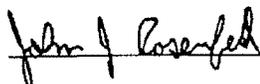
Applicant initially failed to provide evidence that it employs either highly educated or trained managers and workers in NJ. MdX Medical did not meet this based on the Employee Log (Exhibit C3) that was originally submitted with the application. The original Employee Log was nearly blank and we were unable to determine whether any employees had technical job titles, had advanced degrees etc. The applicant had subsequently submitted a revised Employee Log that filled in the blanks, which we have now accepted.

Nonetheless, MdX Medical does not meet this requirement as the applicant's primary business appears to be populating a software database that patients may search to identify doctors having the characteristics deemed important by the patient.

Because MdX Medical did not provide any new evidence that it employs highly educated or trained managers who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer, or manufacture a product or service, we request that MdX Medical's appeal be rejected.

Therefore, because MdX Medical does not show that the primary business of the applicant is the provision of a scientific process, product, or service or that highly educated/trained workers use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer, or manufacture a product or service, we request that MdX Medical's appeal be rejected.

In conclusion, MdX Medical's appeal should be rejected because it does not explain how MdX Medical meets the statutory definition of a Technology Company.



John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

E. Joseph Septimus
POP Solutions, LLC (d/b/a
Ping Mobile)
560 Sylvan Drive
Englewood Cliffs, NJ 07632

Dear Mr. Septimus:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that POP Solutions LLC failed to meet the definition of being a technology company as required by N.J.S.A. 34:1B-7.42(a) (b) (5).

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at N.J.A.C. 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated and/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that POP Solutions, LLC did not meet the definition of a technology company were: 1) POP did not demonstrate it owns, or has filed for, or has a License to use protected, proprietary intellectual property ("PPIP"); 2) POP did not validate that its primary business is the provision of a scientific process, product, or service; and 3) POP did not evidence that it employs some combination of highly educated and/or trained managers and workers in NJ; and that its highly educated/trained workers use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product.

E. Joseph Septimus
POP Solutions, LLC
November 23, 2010
Page 2

POP asserted that it owns and has a license to use PPIP by attaching a Copyright Registration Number TX0007174697, published on June 14, 2010, for PingWizard, the customer interface for Ping Manager, and a License, Resale and Support Agreement dated January 3, 2008, evidencing that it is has exclusive rights to market Ping Manager technology in North America and has a license agreement between itself and YellowPages.com DBA AT&T Interactive. These documents do not constitute PPIP; rather they are licenses to resell products to end users.

POP further advised that it met the definition, pointing to its ability to provide system based research, testing, data base management, unique, complex and scientific algorithms, data mining reporting analytics and decision making intelligence which it does through "designing and developing computer hardware and software" as defined in the definition of the technology business cited above. While POP did evidence that its product is software based, it did not demonstrate that it was designed and developed in house (proprietary); rather, it evidenced that it acquired it and was licensed to sell it to end users.

Lastly, POP advises that its staff employs highly educated/trained workers that use their educational backgrounds. POP cited examples of Ms. Simmonds, co-founder, a BS degreed in MIS and formerly COO of Spiral Solutions in its Spiral Media Group and Ms. McFarlane and Ms. Lipton, both of which primarily have marketing/sales backgrounds. In summation, it appears that these individuals, though skilled in marketing using software and computers, do not meet the definition of being highly skilled or educated to the extent that they have been awarded advanced degrees and can design or develop new technologically advanced or complex algorithms as is required meet the definition cited above.

Based on my review, I do not believe that POP Solutions LLC has produced sufficient evidence to overturn the declination previously issued.

Conclusion:

For the above reasons, I will be recommending that the appeal be denied by the EDA Board at its special meeting on December 1, 2010 at 10:30 a.m.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 18, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 6, 2010 Appeal by POP Solutions, LLC.

We have received and reviewed the October 6, 2010 appeal by POP Solutions, LLC. (“POP Solutions”) of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert POP Solutions’ appeal should be **rejected** because it does not explain how POP Solutions meets the statutory definition of a Technology Company, including that it demonstrate that it has Protected, Proprietary Intellectual Property.

We previously denied POP Solutions’ application because it did not explain how POP Solution qualifies as a Technology Company under this Program:

POP Solutions did not demonstrate that it owns, has filed for, or has a license to use protected, proprietary intellectual property (PPIP). POP Solutions does not meet this as they do not have any rights to any PPIP at all. In its application and its appeal, POP Solutions claims to satisfy the requirement of PPIP solely based on a License, Resale and Support Agreement with Ping Mobile Ltd., a related company located in Israel, to sell software developed by the related company. In this agreement, POP Solutions is merely a reseller of the software and holds no rights to develop the PPIP. Further, the License, Resale and Support Agreement has not been registered with the U.S. Federal Government. Allowing a mere license to resell would run counter to the remainder of the statutory focus on companies that have highly educated or experienced workforce using sophisticated scientific technology to “discover, develop, test, transfer or manufacture a product or service.” Moreover, POP Solutions cannot rely on any qualification or characteristic of Ping Mobile Ltd., as the latter is not the applicant.

Because POP Solutions did not provide evidence of the required Protected, Proprietary Intellectual Property, we request that POP Solutions' appeal be rejected.

- Applicant failed to demonstrate that its primary business, as clarified in the Program regulations, is the provision of a scientific process, product, or service. By definition, a scientific process is a rigorous analytic method. POP Solutions does not meet this as POP Solutions' primary business appears to be reselling mobile marketing software (all of the competitors they site also appear to be marketers). Mobile marketing as described by the applicant involves mobile coupon campaigns, text to win, mobile alerts, trivia and polling, mobile scavenger hunts, etc. Reselling someone else's software does not inherently rise to the level of a scientific process, product, or service. Moreover, POP Solutions cannot rely on any qualification or characteristic of Ping Mobile Ltd., as the latter is not the applicant.

In its appeal, POP Solutions once again claims that it qualifies because it provides to its clients the PingManager software, developed by Ping Mobiel LTD. As described above, mere reselling of what may be a scientific product or service is insufficient, as it broadens the scope of companies beyond companies that have highly educated or experienced workforce using sophisticated scientific technology to "discover, develop, test, transfer or manufacture a product or service." Because POP Solution did not provide any new information how its primary business is the provision of a scientific process, product or service, we request that the appeal of POP Solution be rejected.

- POP Solutions also failed to demonstrate that it has "highly educated or trained managers and workers, or both, who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service". Highly educated or trained means that the company has workers or managers with education or experience above the norm. For any equipment, process, or knowledge to be sophisticated, it must be devoid of simplicity and refined.

In its application, on its Employee Log (Exhibit C3) none of the employees listed appear to have a technology background or job function. For example, the job titles were listed as marketing, customer services, creative manager, director of marketing, director of client services and officer titles: CEO, controller.

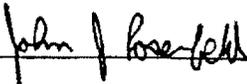
In its appeal, POP Solutions does give the background information on its officers, which do hold college degrees and an MBA, but again with training and degrees in marketing and management. To read the statutory definition as a whole, the education and training requirements should relate to technology relevant to the process,

Furthermore, POP Solutions does not meet this requirement because POP Solutions did not explain how mobile marketing is sophisticated or scientific technology.

In its appeal, POP Solutions describes the job duties as "sophisticated process of transferring serviceable technology to customers". Further, "...without the skilled statistical and behavioral research interface design and implementation of NJ workers, technology would be accessible only to techies". POP Solution did not explain in its appeal what the employees discovered, developed, tested, transferred or manufactured. POP Solutions, as a reseller, receives a fully developed product. As exemplified in the list of key employees, POP Solutions, the applicant, improperly relies on the qualifications of Ping Mobile, Ltd., a legally separate albeit related company.

Therefore, because POP Solutions does not show that it employs highly educated or experienced workers or managers who use sophisticated scientific equipment, processes or knowledge, we request that POP Solutions' appeal be rejected.

In conclusion, POP Solutions' appeal should be rejected because it does not explain how POP Solutions meets the statutory definition of a Technology Company, including the requirement for Protected, Proprietary Intellectual Property.



John J. Rosenfeld,
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Paul Stukus
Reldata, Inc.
1719 Route 10 Suite 209
Parsippany, New Jersey 07054

Dear Mr. Stukus:

I am in receipt of your October 1, 2010 appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Reldata failed to provide the required independent CPA prepared financial statements of its parent company.

Legal Citation:

The relevant legal provision is the requirement to provide financial statements of a company that directly or indirectly is at least 50 per cent owned by another corporation that does not demonstrate net operating losses for the two previous full years of ongoing operation and issued according to generally accepted accounting standards as required by N.J.S.A. 34:1B-7.42 (a) (b) (5).

Discussion:

As indicated in the attached memorandum by John Rosenfeld whose team reviewed your application to the Program, the primary rationale for the denial was that Reldata had not submitted the required independent CPA prepared financial statements from its parent for the two most recent years as set forth above in English on a timely basis. Notwithstanding the foregoing, the attached memorandum acknowledges that the EDA received the required financial statements for Reldata's parent company, Grazia Equity, prior to the September 16, 2010 Board meeting but was not translated from the German language until after this board meeting. Upon translation, EDA was able to determine that the parent company met the Program requirement of having two consecutive years of prior net operating losses.

Conclusion:

As Hearing Officer designated to review the appeals, I have reviewed the appeal submitted in this matter and conclude that Reldata submitted the required independent financial statements for the parent company, Grazia Equity, and those financial statements, after translation to the English language evidenced that the parent company had reported two consecutive years of prior net operating losses as required by N.J.S.A. 34:1B-7.42(a) (b) (5). Accordingly, I will be recommending approval of your application to the EDA Board at its special meeting to be held on December 1, 2010 at 10:30 am.

Paul Stukus
Reldata, Inc.
November 23, 2010
Page 2

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Lisa Coane', written over the typed name.

Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

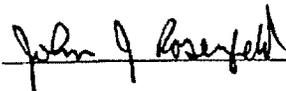
To: Lisa Coane, Hearing Officer
From: John J. Rosenfeld, Director – Program Services
Date: October 18, 2010
Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 1, 2010 Appeal by Reldata, Inc.

We have received and reviewed the October 1, 2010 appeal by Reldata, Inc. of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert Reldata's appeal should be **accepted** because it submitted the required independent CPA prepared Financial Statements of its parent.

We previously denied Reldata's application because Reldata did not provide the required independent CPA prepared Financial Statement of its parent. Required are the two (2) most recent years of independent accountant (CPA) prepared consolidated financial statements or annual reports, prepared in accordance with Generally Accepted Accounting Principles (GAAP) as determined by the Financial Accounting Standards Board (FASB) for the applicant and all corporations and affiliated groups of corporations that directly or indirectly own or control 50 percent or greater of the applicant. The financials of the parent were requested by Staff and Reldata had indicated at the time of the request that the financials of its parent, Grazia Equity were not available at that time. Reldata subsequently submitted the financial statements of its parent but the financial statements were in German. Reldata did not want to spend the money to have the financial statements translated into English so we attempted to have the financial statements translated internally. The translation did not occur until after the September 16, 2010 Board meeting; therefore, Reldata's application for the 2010 Technology Business Tax Certificate Transfer Program was denied.

In its response, Reldata, indicated that its parent, Grazia Equity had provided its externally prepared financial statements. The statements were received by EDA just prior to the initial Board date of September 16, 2010 but the statements were in German language and had to be translated by the state of NJ. After translation and review of the statements, which occurred after the denial by our Board, we are comfortable with the content provided in the parent company's financial statements.

In conclusion, Reldata's appeal should be accepted because the required independent CPA prepared Financial Statements of its parent were submitted and showed Operating Losses for the prior 2 years.

A handwritten signature in cursive script, reading "John J. Rosenfeld", is written over a solid horizontal line.

John J. Rosenfeld,
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Lee Reingold
RightAnswers, Inc.
67 Walnut Street
Clark, New Jersey 07066

Dear Mr. Reingold:

I am in receipt of for your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that RightAnswers Inc. failed to demonstrate that it met the definition of being a technology company as required by N.J.S.A. 34:1B-7.42(a)(b)(5).

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at NJAC 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that RightAnswers, Inc. did not meet the definition of a technology company were: 1) RightAnswers' business was not the provision of a scientific process, product or service; and 2) RightAnswers failed to employ a combination of highly educated and skilled employees that use sophisticated scientific research or knowledge to discover, develop or test a product or service

In its appeal, RightAnswers asserts that it meets the definition because it has designed, developed and holds copyrights for its helpdesk software product Unified Knowledge Suite™ inclusive of "RightAnswers Self-Service"™, "Rightanswers Support Analyst"™ and "RightAnswers Solution Manager"™ which was launched in 2005 and has been updated and revised in 2010.

MAILING ADDRESS: | PO Box 990 | TRENTON, NJ 08625-0990

SHIPPING ADDRESS: | 36 WEST STATE STREET | TRENTON, NJ 08625 | 609.292.1800 | e-mail: njeda@njeda.com | www.njeda.com

RightAnswers further asserts that Mark Sutter, VP of Engineering on staff is a key designer and developer of Unified Knowledge Suite™ and along with his team is responsible for the ongoing developmental enhancements to this software suite of products. Mr. Sutter has an engineering background and an advanced degree in Physics from MIT. Others on staff are involved in product design and creation and hold degrees in engineering.

Based on my review, I believe that RightAnswers has produced sufficient evidence to overturn the initial denial because it has evidenced that it has developed/designed/copyrighted computer software that continues to be updated and refined by highly skilled employees in their field.

Conclusion:

For the above reasons, I will be recommending approval of your application by the EDA Board at its special meeting on December 1, 2010 at 10:30 a.m.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 18, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 6, 2010 Appeal by RightAnswers, Inc.

We have received and reviewed the October 6, 2010 appeal by RightAnswers, Inc. of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert RightAnswers' appeal should be **rejected** because it does not explain how RightAnswers meets the statutory definition of a Technology Business.

We previously denied RightAnswers' application because it did not explain how Right Answer qualifies as a Technology Business under this Program:

- RightAnswers did not demonstrate that its primary business is the provision of a scientific process, product, or service. RightAnswers has created what it terms the Unified Knowledge Suite that enables help desks professionals to improve support to end users.

In its appeal, RightAnswers does not provide any direct refutation of this point but does state that it develops and sells software, has software developers on staff and has production servers that support each client's use of RightAnswers' software. Developing and selling software does not inherently require any rigorous analytical methods to create.

Because RightAnswers did not provide any evidence its primary business is the provision of a scientific process, product, or service, we request that RightAnswers' appeal be rejected.

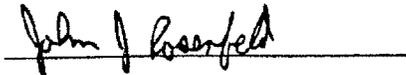
- RightAnswers also failed to demonstrate that it “employs some combination of the following: highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service”. Highly educated or trained

means that the company has workers or managers with education or experience above the norm. And for any equipment, process, or knowledge to be sophisticated, it must be devoid of simplicity and refined.

In its appeal, RightAnswers provides background information on 4 of the employees of RightAnswers which may satisfy the "highly educated" portion of the requirement. However, nowhere does the appeal (or the application) provide any information that demonstrates that the helpdesk software RightAnswers has created is in any way sophisticated or scientific or uses sophisticated scientific research tools. Though the appeal indicates that Java and .Net are utilized these are not considered sophisticated tools – Java in particular is used and taught in introductory computer science courses.

Therefore, because RightAnswers does not show that its primary business is the provision of a scientific process, product, or service nor that it employs either highly educated or experienced workers or managers who use sophisticated scientific equipment, processes or knowledge, we request that RightAnswers' appeal be rejected.

In conclusion, RightAnswers' appeal should be rejected because it does not explain how RightAnswers meets the statutory definition of a Technology Business.

A handwritten signature in cursive script, reading "John J. Rosenfeld", is written over a horizontal line.

John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Jinwook Song
Skyzone Entertainment, Inc.
8400 River Road, 2nd Floor
North Bergen, New Jersey 07047

Dear Mr. Song:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Skyzone Entertainment, Inc. failed to demonstrate that it met the definition of being a technology company as required by N.J.S.A. 34:1B-7.42(a) (b) (5).

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at N.J.A.C. 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated and/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that Skyzone did not meet the definition of a technology company were: 1) Skyzone's primary business was not the provision of a scientific process, product or service and 2) Skyzone failed to demonstrate it owns, has filed for, or has a License to use protected proprietary intellectual property ("PPIP"); 3) Skyzone failed to employ a combination of highly educated/or trained managers, because its uncompensated employees did not meet the definition of full time employee and its employees are neither highly educated nor do they use sophisticated scientific research.

In its appeal, Skyzone clarified that it did own PPIP by providing an Intellectual Property Rights Transfer Agreement dated July, 2008, that evidences that it acquired and now owns PPIP for a remote monitoring system.

Jinwook Song
Skyzone Entertainment, Inc.
November 23, 2010
Page 2

In its application, Skyzone had indicated that remote monitoring is part of its primary business. The acquired PPIP supports that portion of the business. Skyzone also evidenced that it employs a technology educated individual, so it technically meets the requirement of having some combination of highly educated/highly skilled employees pursuant to the definition cited above.

Based on my review, I believe that Skyzone has provided sufficient evidence that it has met the definition of being a technology company as required under N.J.S.A. 34:1B-7.42(a) (b) (5).

Conclusion:

For the above reasons, I will be recommending approval your application to the EDA Board at its special meeting on December 1, 2010 at 10:30 a.m.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John Rosenfeld, Director – Program Services

Date: October 18, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 4, 2010 Appeal by Skyzone Entertainment, Inc.

We have received and reviewed the October 4, 2010 appeal by Skyzone Entertainment, Inc. (“Skyzone”) of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert Skyzone’s appeal should be **rejected** because it does not explain how Skyzone meets the statutory definition of a Technology Business.

We previously denied Skyzone’s application because it did not explain how Skyzone qualifies as a Technology Business under this Program:

- Skyzone did not demonstrate that it “owns, has filed for, or has a license to use protected, proprietary intellectual property”. Skyzone was rejected on this count because it did not provide evidence that it owns any PPIP.

In its appeal, Skyzone did provide an Intellectual Property Rights Transfer Agreement that gives it ownership of a Korean Patent Abstract for a remote monitoring system. This portion of Skyzone’s appeal demonstrates ownership of PPIP and should be accepted.

- Skyzone failed to demonstrate that its primary business is the provision of a scientific process, product, or service as porting games to mobile phones does not require any rigorous analytical methods to create.

In its appeal, Skyzone does not address how the remote monitoring system is its primary business. By its own admission, Skyzone’s primary business is video games for mobile phones as the information contained in the application revolved around video games for mobile phones and did not even mention a remote monitoring system (for which we had not been provided any evidence of ownership of until the appeal as mentioned above). Skyzone

does not meet this requirement as Skyzone's primary business is the provision of games with 3D graphics to mobile phones.

- The applicant must employ some combination of highly educated and/or trained managers and workers in NJ.

In its appeal, Skyzone outlines some of the skills of one of its employees who is working on the remote monitoring system but it is unclear whether these skills require education or experience above the norm. In the Exhibit C3 included with the application, only 1 of the 13 employees of Skyzone appears to have a technology related title. We had also questioned the seemingly low salary levels of some of the employees listed and received a correspondence from Skyzone indicating that these employees did not need to have any special skills to perform their job duties.

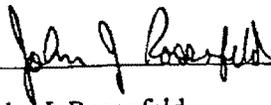
Because Skyzone does not employ some combination of highly educated and/or trained managers and workers in NJ, we request that Skyzone's appeal be rejected.

- Skyzone also failed to demonstrate that its highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service." Highly educated or trained means that the company has workers or managers with education or experience above the norm. And for any equipment, process, or knowledge to be sophisticated, it must be devoid of simplicity and refined.

In its appeal, Skyzone does not address this issue at all.

Therefore, because Skyzone does not show that it employs either highly educated or experienced workers or managers who use sophisticated scientific equipment, processes or knowledge, we request that Skyzone's appeal be rejected.

In conclusion, Skyzone's appeal should be rejected because it does not explain how Skyzone meets the statutory definition of a Technology Business.



John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Tom Hsu
Timecruiser Computing Corp.
9 Law Drive 3rd Floor
Fairfield New Jersey 07004

Dear Mr. Hsu:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Timecruiser Computing Corporation failed to meet the definition of a being a technology company as required by N.J.S.A. 34:1B-7.42(a) (b) (5). Timecruiser also failed to meet the Program requirement that it have two (2) years of net operating losses.

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at N.J.A.C. 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated and/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

The relevant legal provision is the definition of "Net operating loss" which appears at N.J.A.C. 19:31-12.2. That states: "Net operating loss" means the excess of the deductions over gross income used in computing entire net income in a specific year without regard to the net operating loss carryover to that year and the dividend exclusion, as provided in N.J.S.A. 54:10A-4(k)(6)(C).

Tom Hsu
Timecruiser Computing Corp.
November 23, 2010
Page 2

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that Timecruiser did not meet the definition of a technology company were 1) Timecruiser did not demonstrate its primary business is the provision of a scientific process, product, or service; 2) Timecruiser did not evidence that it employs some combination of highly educated and/or trained managers and workers in NJ; and that its highly educated/trained workers use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product; and 3) Timecruiser had positive Net Operating income in either of last two (2) years.

Timecruiser asserts that its cloud computing technology designed by the company is evidence that its primary business meets the definition of being a technology company as cited above because the "cloud based" software allows many multi users to use its portal to use its calendaring program without requiring installation on individual computers. While this application may be in use today, it is my assessment that it was new technology and unique when Timecruiser applied for and received its PPIP in 1999. Timecruiser did not respond or evidence however that it employs high educated and/or trained managers in New Jersey in its appeal, so it is difficult to conclude that the company continues to research, design and develop new software, which conclusion would be needed to meet the definition of being a technology company.

Timecruiser also asserts and supports with a letter from its accountant that the net operating income reported in its 2008 financial statement was not derived from its primary business (consulting services and sales of licenses), but from the sale of patents. Although the explanation from the accountant does not fully articulate that the sale of patents should be classified as "other income", which pursuant to GAAP, would be reported below the net operating income line on the financial statement, and the letter is not supported with a revised financial statement, the sale of patents does not appear to be the primary revenues of the business and does not appear to be reoccurring in 2009, so it does appear to be other income, which when moved below the line of operating expenses would support that Timecruiser reported a net operating loss in 2008.

Although Timecruiser provided evidence of PPIP in its original application and continues to sell the products covered by those patents, it appears that the company is more focused toward providing consulting services than operating as an emerging technology company that has and will continue to develop and design new products. Supporting this assessment is that Timecruiser did not evidence that it has a highly skilled, highly educated work force to further new technology. The fact that it has sold its patents supports the conclusion that the company's business focus has shifted toward consulting services and sale of licenses as opposed to emerging technology.

Conclusion:

For the above reasons, I will be recommending that the appeal be declined by the EDA Board at its special meeting on December 1, 2010 at 10:30 a.m.

Tom Hsu
Timecruiser Computing Corp.
November 23, 2010
Page 3

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 19, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 6, 2010 Appeal by Timecruiser Computing, Corp.

We have received and reviewed the October 6, 2010 appeal by Timecruiser Computing, Corp. (“Timecruiser”) of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert Timecruiser’s appeal should be **rejected** because it does not explain how Timecruiser meets the statutory definition of a Technology Company and the applicant had positive net operating income on its financial statements in the last two (2) years.

We previously denied Timecruiser’s application in part because it did not explain how Timecruiser qualifies as a Technology Company under this Program:

- Timecruiser failed to demonstrate that its primary business is the provision of a scientific process, product, or service. Timecruiser does not meet this as Timecruiser’s primary business revolves around calendaring software and portals for educational institutions. Neither product is considered sufficiently scientific to meet this portion of the Technology Company definition as they do not require any rigorous analytical methods to create.

~~In its appeal, Timecruiser does not directly address this issue but instead outlines how its software is installed on a “cloud” and has never needed to be installed on an individual computer. The software has been utilized over the years by 2.5 million users and can return results in a short amount of time even under heavy use. Although Timecruiser describes some of the internal design of its software, nothing provided in the appeal demonstrates that Timecruiser’s primary business entails a rigorous analytic process, product or service to meet this portion of the Technology Company definition.~~

- Timecruiser also failed to demonstrate that its highly educated/trained workers use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or

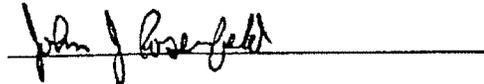
manufacture a product or service. Highly educated or trained means that the company has workers or managers with education or experience above the norm. And for any equipment, process, or knowledge to be sophisticated, it must be devoid of simplicity and refined.

In its appeal, Timecruiser provides a brief description of some of the design featured in its software, yet does not directly address the education or experience of its workforce or how such design is sophisticated. The load allocation algorithm could simply be the assignment of a process to free processors and it could even rely on third-party operating system features to resolve any complexities. Indeed, as conceded by Timecruiser, some implementation relies on Oracle functionality. As for the user interface, Timecruiser appears to have discovered a way of minimizing overhead by simplifying its interface. While efficient, that may not entail complex scientific research tools or knowledge.

Therefore, because Timecruiser does not show that its highly educated or experienced workers or managers use sophisticated scientific equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service, we request that Timecruiser's appeal be rejected.

In addition, Timecruiser had submitted financial statements that showed positive operating earnings in 2008. As the Statute requires that the applicant have a net operating loss in each of the prior 2 years on its financial statements prepared by an independent CPA according to GAAP, Timecruiser was denied. In its appeal, Timecruiser produced a letter from one of the employees at the CPA firm that did the original compilation submitted with the application (there was no indication that this individual is a CPA). This letter does not suffice in that it mentions certain revenues that, if removed from the financial statements would produce a net loss (of course, the same could be said of any profitable company – excluding revenues would produce a net loss). We no longer review net loss but review net operating loss per the change in the Statute in 2009. Timecruiser would have needed to produce a new set of financial statements prepared by an independent CPA according to GAAP showing a net operating loss to attempt to overturn this particular issue.

In conclusion, Timecruiser's appeal should be rejected because it does not explain how Timecruiser meets the statutory definition of a Technology Company and Timecruiser did not submit financial statements prepared by an independent CPA according to GAAP showing a net operating loss on its financial statements in each of the last two (2) years.



John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Geoffrey Lapres, Vice President and CFO
Timesight Systems, Inc.
160000 Horizon Way, Suite 800
Mount Laurel, New Jersey 08054

Dear Mr. Lapres:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Timesight failed to demonstrate that it had Protected Proprietary Intellectual Property ("PPIP").

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at N.J.A.C. 19:31-12.2 and requires, in part, that the applicant "owns, had filed for, or has a license to use protected, proprietary intellectual property..."

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationale for the denial was that Timesight did not demonstrate that it had a PPIP. Notwithstanding the foregoing, the attached memorandum acknowledges that although the United States Patent Office had issued a final rejection of the Timesight patent application, it is remains pending until abandoned or the application is allowed. However, the applicant was not deemed to have submitted its Request for a Continued Application ("RCE") of its patent on a timely basis.

At my request as Hearing Officer, Timesight forwarded a copy of its RCE on November 5, 2010 and I have determined that it was filed within the permitted six month appeal period.

Conclusion:

As Hearing Officer designated to review the appeals, I have reviewed the appeal submitted in this matter and conclude that due to the timely filing of the RCE following the final rejection by the United States Patent Office the patent is still under review and pending, and is not inactive/terminated. This pending patent satisfies the PPIP requirement as set forth in N.J.A.C. 19:31-12.2. Accordingly, I will be

Geoffrey Lapres, Vice President and CFO
Timesight Systems, Inc.
November 23, 2010
Page 2

recommending approval of your application to the EDA Board at its special meeting on December 1, 2010 at 10:30 am.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Lisa Coane', written over a horizontal line.

Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 19, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to September 27, 2010 Appeal by TimeSight Systems, Inc.

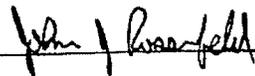
We have received and reviewed the September 27, 2010 appeal by TimeSight Systems, Inc. (“TimeSight”) of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert TimeSight’s appeal should be rejected because TimeSight failed to demonstrate that it has Protected Proprietary Intellectual Property (PPIP).

We previously denied TimeSight’s application because it failed to demonstrate that it has Protected Proprietary Intellectual Property (PPIP). The United States Patent Office (USPTO), on May 6, 2010, had issued a final rejection of the patent application TimeSight submitted to us as evidence of its PPIP. The applicant was asked for the Final Rejection document from the USPTO and submitted a copy for our review in early September. The Final Rejection was very clear that Claims 14 and 15 had been previously cancelled and that Claims 1 through 13 and Claims 16 through 20 “..are rejected under 35 U.S.C. 103(a) as being unpatentable over Sefton US PG. Pub. No. (2007/0069921) referred to hereinafter as Sefton in view of Russell et. al. US PG. Pub No. (2005/0271251) referred to hereinafter as Russel”.

In its appeal, TimeSight states that a patent application remains pending before the USPTO until either 1) the application is abandoned by the applicant; or 2) the application is allowed. The appeal also asserts that a final action by the USPTO does not mean the application isn’t still pending in that an appeal process exists which may (or may not) result in a patent being granted at some later date. However, there are certain timing issues that come into play here. First, the appeal states that once the applicant submits a Request for Continued Examination (RCE), “...the finality of the rejection will be withdrawn and the prosecution will continue”. This RCE was not submitted by our June 30th NOL application deadline, and, as the statute requires all information to be submitted by June 30, we can’t review any new information occurring after June 30. Additionally, the NOL Program requires that the IP of each applicant be

protected by a patent, patent pending, or patent awaiting approval. Because as of June 30 the status of the patent was that the USPTO had rejected it, the applicant did not provide any information indicating that the applicant's IP was protected in any way on June 30. That TimeSight may request that the USPTO reconsider its examination (generally based on new information or arguments for patentability) and legally alter the status of the patent application does not change what that status was on June 30. Despite what TimeSight implies about lack of finality, 37 CFR 1.114 and the Manual of Patent Examination Procedure § 706.07(h) provide that a Request for Continued Examination cannot be filed unless the patent application process has been closed; in this case, as of June 30, TimeSight's application was closed based on a final rejection. As the applicant did not provide any evidence that its IP was protected on June 30, we request that the appeal be rejected.

In conclusion, TimeSight's appeal should be rejected because it did not demonstrate that it has any PPIP.



John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Mark Meller
Trey Resources, Inc.
5 Regent Street Suite 520
Livingston, New Jersey
07039

Dear Mr. Meller:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Trey Resources Inc. failed to meet the definition of a being a technology company as required by N.J.S.A. 34:1B-7.42(a) (b) (5) and failed to meet the requirement of having a minimum of 10 employees as of June 30, 2010.

Legal Citation:

The relevant legal provision with respect to the definition of "Technology business" appears at N.J.A.C. 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated and/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

The relevant legal provisions with respect to employees are the definitions of "Full-time employee", found at N.J.S.A. 34:1B-7.42b and "New or expanding" which appears at N.J.S.A. 34:1B-7.42b. That definition states: "New or expanding" means a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated for less than three years, has at least five full-

Mark Meller
Trey Resources, Inc.
November 23, 2010
Page 2

time employees working in this State if the company has been incorporated for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated for more than five years; and (3) on the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition. (emphasis added)

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that Trey Resources, Inc. did not meet the definition of a technology company were: 1) Trey did not demonstrate it has, owns, or has filed for, or has a License to use protected, proprietary intellectual property ("PPIP"); and 2) Trey did not evidence that it employs some combination of highly educated and/or trained managers and workers in NJ; and that its highly educated/trained workers use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product; and 3) Trey did not evidence that it employed 10 full time employees (as cited above) as of June 30, 2010, which is a requirement of the Program for companies that have been in operation for greater than five (5) years.

Trey asserts that it publishes and sells its proprietary software, MAPADOC, through a network of software resellers to facilitate computer to computer communication for purchase order processing. This software application, however, was not developed and or owned by Trey and Trey does not have a license to use MAPADOC. SWK Technologies, Inc., a separate entity that Trey has 80% ownership interest in holds the license to MAPADOC. Thus, Trey has not produced any evidence of ownership, pending application, or license of PPIP.

Trey advises that it employs highly skilled/educated employees that use scientific research, processes; knowledge pursuant to the citation above to further its product, yet the background information provided on these employees suggests that the employees have business/accounting skills that may be applied to any business.

Trey also does not support that it had 10 full time employees as of June 30, 2010. In its appeal, Trey indicates it employs a total of 9 employees (2 full time computer programmers and 7 CPAs). The CPAs are referenced to be "consulting" employees, which suggests that they are not full time employees as required under the Program. Finally, there is unexplained inconsistency in the number of employees stated in the appeal (9) v. those listed in the initial application (6 full time technical employees and 9 consulting employees.)

Based on my review, I do not believe that Trey Resources, Inc. has produced sufficient evidence to overturn the declination previously issued.

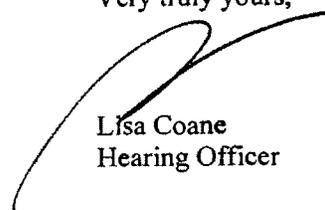
Mark Meller
Trey Resources, Inc.
November 23, 2010
Page 3

Conclusion:

For the above reasons, I will be recommending that the appeal be declined by the EDA Board at its special meeting on December 1, 2010 at 10:30 a.m.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer
From: John J. Rosenfeld, Director – Program Services
Date: October 18, 2010
Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to September 29, 2010 Appeal by Trey Resources, Inc.

We have received and reviewed the September 29, 2010 appeal by Trey Resources, Inc. (Trey) of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert Trey's appeal should be rejected because it does not explain how it meets the statutory definition of a Technology Business, including demonstrating that it has Protected, Proprietary Intellectual Property, or that it employs at least the minimum full-time New Jersey employees.

We previously denied Trey's application in part because it did not explain how Trey qualifies as a Technology Business under this Program:

- Trey did not demonstrate that it "owns, has filed for, or has a license to use protected, proprietary intellectual property."

In its application, Trey did not provide any evidence of ownership, application, or license to a patent or copyright. Indeed, as stated in a July 30 email, Trey has made a decision not to copyright its own software and does not license software from any other party. The license provided is held by SWK Technologies, Inc., which, as clarified in the appeal, is a separate company in which Trey holds 80% of equity. Moreover, the license agreement does not allow Trey to further develop or modify the licensed software. In its appeal Trey merely refers to a description of its software and the programmers of SWK Technologies and CPAs.

Because Trey did not provide evidence of the required Protected, Proprietary Intellectual Property, we request that Trey's appeal be rejected.

- Trey also failed to demonstrate that it "employs some combination of the following: highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or

production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service.” Highly educated or trained means that the company has workers or managers with education or experience above the norm and that they use that education/experience in their day-to-day activities revolving around a sophisticated scientific product or service. And for any equipment, process, or knowledge to be sophisticated, it must be devoid of simplicity and refined.

In its application, Trey states that it employs certified network engineers and CPAs. As evidence of its highly educated management and workforce, Trey indicates that the financial accounting managers are CPAs “and two other employees have BA’s.” In its appeal, Trey states that it has “two full-time programmers.”

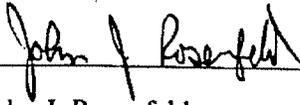
Nonetheless, Trey does not explain how the two “BA” degrees or the two “programmers” have education or experience above the norm or how their work is complex and refined. Specifically, Trey does not state which employees have the “BA” degrees or in what discipline such degrees were obtained. Nor does Trey indicate what level of complexity is handled by the programmers. Moreover, the forms supplied to document its workforce does not show compensation normally associated with workers or managers who are highly educated or experience or perform sophisticated work. The W-3 form provided shows that Trey has only two employees who earned a combined \$37,566.64 and on Trey’s second quarter 2010 Form 941, Trey indicates one employee with no salary at all.

Therefore, because Trey does not show that it employs either highly educated or experienced workers or managers who use sophisticated scientific equipment, processes or knowledge, we request that Trey’s appeal be rejected.

Additionally, we denied Trey’s application because Trey did not have the minimum number of Full-Time Employees in New Jersey on June 30, 2010. Trey was required to have ten (10) employees, as Trey was incorporated on 10/03/2002. For a company to count a New Jersey employee, such an employee must receive consideration or wages. Although in Exhibit C to its application, Trey listed 40 employees, the W-3 form provided shows that Trey has only two employees who earned a combined \$37,566.64. Further, on Trey’s second quarter 2010 Form 941, Trey indicates one employee with no salary at all. Because Trey did not provide in its application evidence that it employed the minimum number of Full-Time Employees in New Jersey and because Trey did not even address this reason for denial in its appeal, we request that Trey’s appeal be rejected.

In conclusion, Trey’s appeal should be rejected because it does not explain how Trey meets the statutory definition of a Technology Business, including demonstrating that it

has Protected, Proprietary Intellectual Property, or that it employs at least the minimum full-time New Jersey employees.



John J. Rosenfeld
Director – Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Anat Shinkar
Vidyo, Inc.
433 Hackensack Avenue, 6th Floor
Hackensack, New Jersey 07601

Dear Mr. Shinkar:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Vidyo failed to provide the required independent CPA prepared financial statements for a prior financial reporting period ending January 31, 2009.

Legal Citation:

The relevant legal provision is the requirement to provide financial statements that do not demonstrate net operating losses for the two previous full years of ongoing operations and issued according to generally accepted accounting standards as required by N.J.S.A. 34:1B-7.42(a) (b) (5).

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationale for the denial was that Vidyo had not submitted the required independent CPA prepared financial statement for the two most recent years as set forth above. Notwithstanding the foregoing, the attached memorandum acknowledges that the EDA, thereafter, received the prior financial statements on October 21, 2010 and these statements were found by staff to be in accordance with the requirements and showed an operating loss for Vidyo for the fiscal years ending January 31, 2009 and January 31, 2010.

Conclusion:

As Hearing Officer designated to review the appeals, I have reviewed the appeal submitted in this matter and conclude that Vidyo submitted the CPA prepared financial statements at the request of EDA staff and that financial statements evidenced that applicant reported two consecutive years of prior net operating losses as required by N.J.S.A. 34:1B-7.42(a) (b) (5). Accordingly, I will be recommending approval of your application to the EDA Board at its special meeting on December 1, 2010 at 10:30 am.

Anat Shinkar
Vidyo, Inc.
November 23, 2010
Page 2

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Lisa Coane', written over a horizontal line.

Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 22, 2010

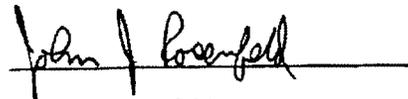
Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 6, 2010 Appeal by Vidyo Inc.

We have received and reviewed the October 6, 2010 appeal by Vidyo, Inc. of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert Vidyo's appeal should be **approved** because it submitted the required independent CPA prepared Financial Statements.

We previously denied Vidyo's application because Vidyo did not provide the required independent CPA prepared Financial Statements. Required are the two (2) most recent years of independent accountant (CPA) prepared consolidated financial statements or annual reports, prepared in accordance with Generally Accepted Accounting Principles (GAAP) as determined by the Financial Accounting Standards Board (FASB) for the applicant.

On October 21, 2010, the Authority received the audited financials of Vidyo for year ended January 31, 2009. The financial statements were reviewed by Staff and are in order. Therefore, as we've have allowed others to send in historical information after the deadline and the financial statements show an operating loss for the applicant's fiscal year ending January 31, 2009, the audited financial statements of Vidyo should be accepted.

In conclusion, Vidyo's appeal should be accepted because it provided the required independent CPA prepared Financial Statements.



John J. Rosenfeld
Director - Program Services



NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

November 23, 2010

Anthony DiCio, CEO
Xipto, Inc.
211 Warren Street Suite 420
Newark, New Jersey 07103

Dear Mr. DiCio:

I am in receipt of your appeal for reconsideration under the Technology Business Tax Certificate Transfer Program ("Program").

Previous Action:

By way of background, the Board of Directors of the New Jersey Economic Development Authority ("EDA") reviewed and declined your application for Program benefits on September 16, 2010. The information provided indicated that Xipto failed to demonstrate that it met the definition of being a technology company as required by N.J.S.A. 34:1B-7.42(a) (b) (5).

Legal Citation:

The relevant legal provision is the definition of "Technology business" which appears at N.J.A.C. 19:31-12.2. That states: "Technology business" means an emerging corporation, that has a headquarters or base of operations located in New Jersey, that owns, has filed for, or has a license to use protected, proprietary intellectual property whose primary business is the provision of a scientific process, product, or service and that employs some combination of the following: highly educated and/or trained managers and workers employed in New Jersey who use sophisticated scientific research, service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. Examples of activities satisfying this definition included: the designing and developing of computing hardware and software; the research, development production of or provision of technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices.

Discussion:

As indicated in the attached memorandum by John Rosenfeld, whose team reviewed your application to the Program, the primary rationales for determining that Xipto did not meet the definition of a technology company were: 1) Xipto's primary business was not the provision of a scientific process, product or service and 2) Xipto failed to employ a combination of highly educated and/or trained managers, because its uncompensated employees did not meet the definition of full time employee and its employees are neither highly educated nor do they use sophisticated scientific research.

Xipto asserted that it met the definition, pointing to its participation in the EDA Edison Fund. It also stated that its uses computer science to develop its propriety technology solution, which it considers unique. It points out that the development staff have been awarded MS in Computer Science from NJIT. Other degrees appear to be Bachelor degrees from Cornell and Carnegie Mellon.

Anthony DiCio, CEO
Xipto, Inc.
November 23, 2010
Page 2

Based on my review, I believe that Xipto has produced sufficient evidence that it has met the definition of being a technology company because it has patents pending for its digital voice product and the application of that product is unique in the way it delivers advertising to customers. Although the goal of Xipto's company is to promote advertising, that does not change the fact that its primary business is based on the use of computer science. Moreover, the definition of "technology", cited above, explicitly includes "digital communications", and Xipto's business consists of digital communications. With respect to its employees, while some of the employees listed (chiefly, the officers of the company) are not shown as being paid salaries, non-payment of salaries in early stage technology is common industry practice due to the limited cash resources young companies have when they are developing products and building their client base. Further, receipt of the MS in Computer Science is sufficient to be "considered "highly trained".

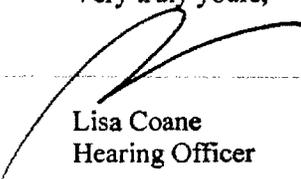
It should be noted that the definition of "Technology company" for the NOL program and the NJEDA Edison fund differ and therefore, I do not find the company's participation in the Edison Fund persuasive in supporting the company's claims

Conclusion:

For the above reasons, I will be recommending approval of your application to the EDA Board at its special meeting on December 1, 2010 at 10:30 a.m.

After the EDA Board concludes its review and renders its decision, which is subject to a ten (10) day veto period by the Governor, we will notice you of that final action.

Very truly yours,



Lisa Coane
Hearing Officer

c: Caren S. Franzini, Chief Executive Officer
John J. Rosenfeld, Director

Memorandum

To: Lisa Coane, Hearing Officer

From: John J. Rosenfeld, Director – Program Services

Date: October 19, 2010

Re: Appeals – 2010 Technology Business Tax Certificate Transfer Program
Response to October 6, 2010 Appeal by Xipto, Inc.

We have received and reviewed the October 6, 2010 appeal by Xipto, Inc. of the denial of its application for the 2010 Technology Business Tax Certificate Transfer Program. In response, we assert Xipto's appeal should be rejected because it does not explain how Xipto meets the statutory definition (as clarified by regulations) of a Technology Company.

We previously denied Xipto's application because it did not explain how Xipto qualifies as a Technology Company under this Program:

- Xipto did not demonstrate that its primary business is the provision of a scientific process, product, or service. Xipto's primary business involves advertising on mobile phones in what they refer to as "ring back space". Broadcasting an advertisement prior to someone answering their cell phone is not considered sufficiently scientific to meet this portion of the Technology Company definition as it does not require any rigorous analytical methods to create.

In its appeal, Xipto asserts that because it was awarded a \$1M NJEDA Edison Fund investment it is a Technology Company and has always been considered a Technology Company by the NJEDA. The appeal also states that because Xipto utilizes computer programming to develop, test, and deploy its service, for which it has PPIP, it meets the definition of Technology Company. Neither of these statements is true. The NOL Program has a Statutory definition of Technology Company that is unique to the NOL Program. Having been approved for an Edison Fund investment has no relation to the NOL Program and in no way qualifies a recipient to be considered a Technology Company in the NOL Program. Merely utilizing computer programming does not indicate any sufficiently analytical methods are used to create something scientifically.

Because Xipto did not provide evidence its primary business is the provision of a scientific process, product, or service, we request that Xipto's appeal be rejected.

- Xipto also failed to demonstrate it employs some combination of highly educated and/or trained managers and workers in NJ. In Exhibit C3 submitted with Xipto's application, only 2 employees were listed. Their titles were Junior Developer and Business Analyst with salaries of \$28,800 and \$30,000 respectively. When questioned about the lack of full-time employees shown on Exhibit C3, Xipto did provide a revised Exhibit C3 showing a number of individuals that work for Xipto but do not receive any compensation. Nonetheless, for an individual to be employed, that individual must be compensated in some fashion, as evidenced by the statutory definition of Full-Time Employee, which provides for different forms of employment. Nor does Xipto clarify how much value and time these unpaid individuals contribute. Therefore, we concluded that they should be excluded from consideration as to whether Xipto has highly educated and/or trained managers and workers in NJ.

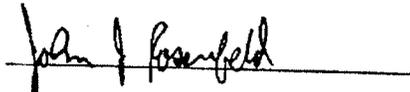
Because Xipto did not provide evidence that it employs some combination of highly educated and/or trained managers and workers in NJ, we request that Xipto's appeal be rejected.

- Xipto also failed to demonstrate that the combination of highly educated or trained managers and workers in New Jersey "use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service". Highly educated or trained means that the company has workers or managers with education or experience above the norm. And for any equipment, process, or knowledge to be sophisticated, it must be devoid of simplicity and refined.

In its appeal, Xipto states that it employs development staff having received an MS in Computer Science, a degree from Cornell, and a degree from Carnegie Mellon. Even if these individuals are counted as employees, merely having a degree in Computer Science or from a prestigious university does not demonstrate that any of these individuals do anything remotely sophisticated or scientific.

Therefore, because Xipto did not demonstrate that it employs either highly educated or experienced workers or managers who use sophisticated scientific equipment, processes or knowledge, we request that Xipto's appeal be rejected.

In conclusion, Xipto's appeal should be rejected because it does not explain how Xipto meets the statutory definition of a Technology Company.

A handwritten signature in cursive script, reading "John J. Rosenfeld", is written over a solid horizontal line.

John J. Rosenfeld
Director - Program Services