OPEGA Response to Public Comments and GOC Questions about the PTDZ Evaluation

1. **<u>Is PTDZ intended to make Maine "more competitive in attracting new businesses" or to otherwise "level the playing field" by offsetting taxes that may be higher in Maine than in other states?</u>**

   Although many stakeholders spoke during the Public Comment session about the value of PTDZ in offsetting Maine business taxes that they feel are prohibitively high, OPEGA has not found any basis for this being a stated legislative intent of the program. At enactment the program was clearly focused on job creation as its intent. When OPEGA presented draft evaluation parameters to the GOC in spring 2016 we suggested basing the intent and goals for the program on what was expressed in statute. Specifically, we recommended:

   > Intent — To encourage development in economically distressed communities in Maine in order to provide new employment opportunities; improve existing employment opportunities; improve and broaden the tax base; and improve the general economy of the State.
   >
   > Goal — To provide new qualifying employment opportunities in certain industries in economically distressed communities.

   The GOC solicited and took stakeholder comment on OPEGA's proposed evaluation parameters for the PTDZ evaluation before approving them on January 22, 2016. No stakeholders provided any comment at that time to suggest these were not the correct intent or goal for the program or to suggest that the program's true intent was about making Maine more competitive.

   If the goal of the PTDZ program has changed, OPEGA would suggest statute should be updated to reflect the new goal and to remove any old goals that are no longer expected for this program. In addition, if goals are changed then the program's design and requirements should be amended to ensure they appropriately target the new desired outcomes.

2. **<u>Did OPEGA interview any PTDZ business recipients or other stakeholders as part of the PTDZ evaluation?</u>**

   OPEGA did not interview any business participants as part of our PTDZ evaluation. We did, however, interview representatives of the following entities:

   - Department of Economic and Community Development (DECD);
   - Maine Revenue Services (MRS);
   - the Maine Public Utilities Commission (interview conducted by email and telephone);
   - Efficiency Maine Trust (interview conducted via email);
   - the Maine State Chamber of Commerce; and
   - a Maine tax attorney that lobbies on behalf of many business participants in tax programs.

   As demonstrated in our evaluation of the New Markets Capital Investment program, OPEGA recognizes the value of reaching out to business participants and other stakeholders in evaluating the outcomes of a tax expenditure program. Interviewing and/or surveying these individuals is critical to understanding how the program has actually affected the businesses participating in it. However, this type of data gathering is also extremely resource intensive for OPEGA and demands the time of the businesses themselves. Because we aim to steward our resources carefully, widespread surveys and interviews are not methods we use casually.

When we decided to cut our PTDZ evaluation short without spending the resources necessary to evaluate its outcomes, we also decide widespread surveys or interviews would not be necessary. We were, and remain, comfortable with this approach because the perspectives and opinions of business participants and stakeholders would not change our observations about the design weaknesses we identified in the PTDZ program. The large number of employees a PTDZ business may have hired does not change the fact that the statute only requires the hire of one new employee for all PDTZ benefits except the ETIF expansion. Likewise, how critical the PTDZ program may have been to a business's ability to expand in an economically distressed region in Maine does not change the fact that the statute does not effectively target the most distressed regions of the State.

3. **<u>What data was not readily available that OPEGA needed to assess PTDZ's outcomes?</u>**

All of the data that OPEGA would need to assess PTDZ's outcomes exists somewhere. Some pieces are readily available at DECD or MRS. However, other pieces are not readily available or retrievable and gathering them would be a resource intensive effort for OPEGA, DECD, MRS, and potentially for business participants. Key missing data elements include:

a. ***Data on Cost to State Budget***

We cannot accurately model the net impact to the State budget, including positive effects of business growth attributable to the program, without knowing the complete cost of the program. Table 4 on page 22 of the OPEGA's PTDZ report details why data is not readily available on the cost of PTDZ Sales Tax Exemptions and Reimbursements as well as Income Tax Credits.

Sales Tax Exemption data would need to be gathered from business participants directly.

Sales Tax Reimbursement and Income Tax Credit data is available at MRS but would require MRS staff to manually pull specific data pieces from tax forms or to give OPEGA access to those tax forms so that we could pull the necessary data details ourselves. The tax forms in question may include other tax information not related to PTDZ.

b. ***Attribution Data***

No agency is currently collecting data that OPEGA would consider adequate as a basis for determining how much of each business's project (hiring and investment) was attributable to the PTDZ program and, therefore, would likely not have happened if it were not for the program. As discussed in the PTDZ report, making assumptions based solely on the "but for" letter is not adequate for this purpose.

Additional information needed to assess attribution that is not readily available is about what other State development incentives each PTDZ business recipient is using. This is key data because if a business is receiving benefits from a package of four or five different programs such as New Markets, ETIF, PTDZ, BETR, one cannot attribute 100% of the business's project to each and every program. There are a number of modeling approaches one could take, and OPEGA would need additional information about businesses' benefit packages in order to determine which modeling approach is most robust.

c. ***Investment Spending Data***

OPEGA would need to know how much of each business's investment attributable to PTDZ was spent with in-state vs out-of-state vendors. This data is not currently collected by any state agency and is a significant factor in modeling the impact of PTDZ on the broader economy.

OPEGA does not believe that the data necessary to support robust economic modeling is the kind of "trade secret" data that most businesses would be hesitant to share. In fact, when we gathered similar data in our New Markets evaluation all business participants in that program willingly shared the necessary data directly with our office. Our office is set up to hold data confidential when necessary and even to perform the modeling in-house when sharing data with our consultant is not possible.

4. Why not divide the estimated cost of the PTDZ program by the job counts reported to DECD to come up with a cost per job figure?

This division can easily be done, but doing this calculation without solid cost and jobs data would just be adding potentially misleading data to the discussion of this program. In OPEGA's opinion, there is inadequate data currently available to support this cost per job calculation because:

a. Cost data is incomplete. As noted in the explanation of additional data needed under #3a above, the estimated program cost reported by OPEGA in the PTDZ report does not include all program costs. It is a minimum, and there are additional costs that OPEGA is aware of but did not spend the resources to gather from businesses that participated in the program.

b. Jobs counts need further analysis. The need to analyze the job counts from an attribution perspective was already discussed in #3b above. However, OPEGA believes additional analysis beyond attribution should also be undertaken before the DECD job counts are used in any analysis to estimate the program's cost-benefit. One example of this additional analysis was raised by GOC members during the PTDZ public comment period. They asked whether some of the jobs reported by a particular business as "new jobs" under PTDZ were actually brand new or were instead preexisting jobs that were saved or preserved. The number of jobs that may be in this category is not small, and is not confined to that business alone. OPEGA is in the process of conducting this analysis for its ETIF evaluation.

5. Has PTDZ always required only 1 new hire for a participant to maintain certification?

30-A M.R.S. §5250-I(17) currently defines "Qualified Pine Tree Development Zone business" or "qualified business" as "any for-profit business in this State engaged in or that will engage in financial services, manufacturing or a targeted technology business ***that has added or will add at least one qualified Pine Tree Development Zone employee above its base level of employment*** in this State and[…]" (emphasis added). This definition originated with an amendment in 2005 (PL2005 c.351). At the program's enactment in 2003 (PL2003 c.688), statute defined a qualified business as one that "adds qualified Pine Tree Development Zone employees[…]" with no minimum number of jobs required and no qualifier that the jobs may be already added or may be planned for future addition.

6. **<u>Has PTDZ always allowed participants to receive benefits for up to two years regardless of whether they hire any new employees?</u>**

   It does not appear that PTDZ statute has ever had any limit on how many years a PTDZ business can stay certified, and therefore continue to receive benefits, without having hired any new employees. This may be related to two other pieces of information.

   a. The fact that decertification is not discussed in PTDZ statute.

   b. The fact that, as described in #5 above, statute initially allowed a business to be considered PTDZ qualified only if it adds jobs, but the statute was amended two years after enactment to allow a business to qualify if it "has added or will add" jobs. This change opened the certification up for the first time to businesses that had not yet hired any new employees, thus introducing the need to potentially limit the number of years a business could remain certified without hiring new employees.

   PTDZ rule, established by DECD, does have the two year limitation as part of the conditions under which a PTDZ participant may be decertified by the Department (rule section 3 paragraph 1). The program's initial rule making did not include any such limitation, and decertification is not discussed in statute. However, rule changes in 2005 introduced the conditions for decertification. This added rule required decertification of businesses that had not hired any new employees within two years.

   Stakeholders have told OPEGA that making benefits available before hiring occurs may be necessary to get the financial benefits to businesses so they can get their development project far enough underway to later allow them to hire new employees.

7. **<u>Did OPEGA consider the work conducted by Investment Consulting Associates (ICA) and presented in ICA's January 2016 report "Comprehensive Evaluation of Maine's Research &Development and Economic Development Incentive and Investment Programs"?</u>**

   OPEGA was aware that DECD's independent evaluator, ICA, reviewed the PTDZ Program in its most recent biennial economic development program evaluation and that ICA had conducted a Cost Benefit Analysis and determined an Internal Rate of Return (IRR) for the program. OPEGA thoroughly reviewed the ICA report as part of our own PTDZ evaluation work. The ICA report includes many observations, recommendations and comments from businesses about the State's economic development incentive programs that OPEGA has brought to the attention of the GOC in the past. Some of those are specific to the PTDZ program.

   ICA's description of its Cost Benefit and IRR analyses begins on page 30 of its 2016 report with the specific results for the PTDZ analyses reported on pages 34 – 37. The analyses were performed using the evaluator's own model. Data for input to the model was obtained from several sources including from a survey of businesses receiving certain State economic development incentives. The survey sought information related to several different economic development programs. According to ICA, 210 PTDZ businesses received the survey and 151, or 71.9%, fully completed the survey with another 23 PTDZ businesses partially completing the survey. ICA used information reported by the respondents who were PTDZ certified companies to extrapolate overall results for the PTDZ program using the model.

   In March 2016, ICA presented its January 2016 report, including its observations on the PTDZ Program and the CBA and IRR analyses, to a joint meeting of the GOC and representatives of the Taxation and LCRED committees. At that time, there were a number of detailed questions from legislators regarding the analysis methods and the data used. There were also questions on the reasonableness of the some of the amounts reported in the Cost Benefit Analysis for PTDZ and BETR. OPEGA subsequently met with ICA, DECD and legislative fiscal staff in April 2016 to get a better understanding of ICA's analysis and the assumptions that were used in modeling program results. In June 2016, ICA provided some additional written explanations to questions from that meeting. These exchanges did provide additional understanding of ICA's approach at a conceptual and contextual level and resulted in ICA submitting a corrected version of the table showing the BETR analysis on page 33 of the 2016 report.

It was in this context that OPEGA considered whether to pursue further understanding of ICA's analysis of PTDZ program outcomes. We learned from our experience in modeling the impacts of the New Markets Capital Investment program (NMTC) that modeling results are significantly impacted by assumptions that are built into, or introduced into, the model used. Similarly critical are the decisions made about how much of reported activity – new jobs, investments, sales, revenues, etc. – can be attributed directly to the program and thus should be input to the model. From our perspective, ICA faced many of the same data and attribution challenges that we described in our report including an understanding of the full costs to the State.

We determined we would require a much more detailed understanding of ICA's methodology, model, assumptions and data before being comfortable including any discussion of the CBA and IRR analyses in the OPEGA report. We were concerned that referencing them in our report would be perceived as OPEGA concurring with ICA's results, particularly when we had not done any objective outcome assessment of our own. We also did not have sufficient understanding of ICA's analyses to:

- assess the degree to which we thought ICA's results were reflective of the PTDZ Program's actual impact on the State; and/or
- describe how ICA's approach and results compared to the performance measures of Net Impact to State Budget and Impact on Gross State Product OPEGA calculated for the NMTC Program and which we intended to use for the PTDZ Program.

As previously described, we ultimately decided not to spend the resources that would be required to report on PTDZ outcomes at this time. This included not spending the resources to further understand ICA's analyses and outcome results.

8. **<u>How many hours has OPEGA spent on the PTDZ evaluation?</u>**

OPEGA staff accumulated about 1100 hours on the PTDZ evaluation through the date of report release, with the Director accumulating another 80 to 120 hours.

Some of the hours OPEGA has accumulated on the ETIF review were also relevant to the PTDZ evaluation as we gathered an understanding of the standard ETIF program and the expanded ETIF benefit available under the PTDZ program. To date, OPEGA also has about 1100 hours accumulated on the ETIF review, which is ongoing. These hours include considerable time spent negotiating agreements and protocols with MRS and DECD for OPEGA access to confidential ETIF data which was also used in the PTDZ review. Time spent training and providing guidance to new staff is also captured in the ETIF hours.