



GreenTech Automotive Inc. Project Report

On Monday, September 19, 2016, the Office of the State Auditor (OSA) began a review of GreenTech Automotive Inc. (GreenTech). The purpose of the review was to verify compliance with the Memorandum of Understanding (MOU), the Loan Agreement, and the Security Agreement between the Mississippi Development Authority (MDA) and GreenTech. The MOU, dated July 25, 2011, was for the issuance of a loan from the Industry Incentive Financing Revolving (IIFR) Loan program administered by MDA (agreement dated September 6, 2011) in an amount totaling \$3 million.

As part of the review, OSA attempted an onsite visit at the Project Site located in Tunica, MS on Thursday, November 17, 2016 to review records that were clearly under the purview of the Mississippi State Auditor (MS Code §7-7-211) and were agreed to in the MOU between MDA and GreenTech. No records were reviewed or retrieved on this date because the Company's personnel refused to provide the requested records.

Because the company refused to provide the requested documentation, the OSA issued a subpoena for the records on November 21, 2016. The subpoenaed records were provided by the Company and received by OSA on December 21, 2016.

OSA examined and attempted to verify the following:

- 1.) Evidence of the IIFR loan repayment,
- 2.) The creation of at least 350 new full-time jobs,
- 3.) Evidence the Company invested at least \$60 million in the Project no later than December 31, 2014,
- 4.) The Company complied with the Mississippi Employment Protection Act (MEPA) requirements per State law, and
- 5.) Compliance with the Loan and Security Agreements.

Review Results:

MDA made the first and only loan disbursement to GreenTech on February 12, 2012 in an amount totaling \$3 million. The IIFR loan payments were due semi-annually on June 30th and December 31st of each year, with the first loan payment due six (6) months after the Start of Commercial Production (stated as 10/5/2015, per the Company's website). On July 7, 2016, MDA officially notified the Company they had defaulted on the first loan payment, which was due on June 30, 2016. In an attempt to rectify the default, GreenTech made its first payment of \$150,000 to MDA in November 2016. Per GreenTech's Corporate Finance Director, the Company has only made one (1) loan payment to date.

For this reason, OSA finds GreenTech defaulted on its loan agreement by not making loan payments on the June 30th and December 31st of each year and by not making the first loan payment at least six (6) months after the Start of Commercial Production (Article III, Section 3.2(ii)).

On Tuesday, February 14, 2017, OSA requested capital investment documentation, but no information and/or documentation was provided by the Company pertaining to their capital investment. However, GreenTech submitted documentation that it had approximately 86 private investors with each investing \$500,000 (\$43 million total) into the Project.

OSA finds GreenTech did not comply with its commitment as stated in the MOU (Article II, Section 2.2 (i)) by investing not less than \$60 million in the Project no later than December 31, 2014.

Per the subpoenaed records, GreenTech's documentation indicated the Company had 26 jobs in place prior to the signing of the MOU (dated July 25, 2011). As of December the 31, 2014 (measurement day), GreenTech had created 143 actual jobs. However, due to terminations and/or layoffs, the Company only had 94 new full-time jobs as of December 31, 2014 at the Project Site.

Additionally, as indicated in Chart 1, it appeared the Company had approximately 87 full-time jobs at the Project Site as of December 31, 2015 and approximately 53 full-time jobs at the Project Site as of December 31, 2016. As of February 28, 2017, it appeared the Company had further downsized to approximately 10 active employees.

Chart 1

| Date of Employment Count | Total Active Full-Time Jobs Created |
|--------------------------|-------------------------------------|
| December 31, 2014 | 94 |
| December 31, 2017 | 87 |
| December 31, 2016 | 53 |
| February 28, 2017 | 10 |

OSA finds the Company failed to create employment levels at 350 new full-time jobs by the earlier of December 31, 2014 and failed to maintain said new jobs (MOU Article II, Section 2.2(ii) (iii)).

In addition to maintaining the new full-time jobs, the Company agreed to pay an annual salary of at least \$35,000.

Of the employees reviewed, the OSA was unable to determine an average annual salary due to the documentation submitted. Consequently, the integrity of the Company's data was not sufficiently reliable to determine a conclusive finding on whether the Company achieved the commitment of providing its employees with an aggregate annual salary of at least \$35,000(MOU Article II, Section 2.2(iii)).

OSA found numerous errors in the data provided, even after multiple requests for corrected data, therefore it could not be used as a reliable source for documentation. This being noted, the use of this employment data compromises the integrity of the OSA's review because OSA was unable to verify the control procedures over input to ensure all data was entered correctly.

During the review, OSA also checked compliance with the Mississippi Employment Protection Act. Based on a sample taken and the records provided:

OSA finds GreenTech did satisfy compliance with MEPA by utilizing the federal status verification system to verify all newly hired employees (MOU Article II, Section 2.6).

GreenTech entered into a Purchase Money Security Agreement on September 6, 2011 with MDA to secure the \$3 million Industry Incentive Financing Revolving Loan. Under this agreement, MDA agreed to allow GreenTech to select the collateral that would be used as the security interest, which was assembly equipment and parts for the MyCar. The security interest was required to have a value equivalent to the outstanding loan balance. GreenTech submitted documents showing the price of the assembly equipment purchased totaled \$3.4 million as indicated in Chart 2.

Chart 2

| Item | Description | Qty. | Invoice Date | Amount |
|-------------------|---------------------------|-------|-------------------|--------------------|
| Invoice #1 | Assembly Equipment (1set) | 1 Set | 2/24/11 | \$2,350,000 |
| Invoice #2 | Assembly Equipment (1set) | 1 Set | 3/25/11 | \$1,000,000 |
| Invoice #3 | Assembly Equipment (1set) | 1 Set | 4/30/11 – 5/10/11 | \$95,600 |
| | Total | | | \$3,445,600 |

OSA analyzed the documentation submitted by GreenTech to MDA for reimbursement and made the following determination:

- *MDA accepted a Collateral listing from GreenTech of a shipment of assembly equipment from SCIVIC Engineering Corporation that showed wooden pallets, cases, and/or packages of supplies/parts used to assemble the car (Exhibit A of the Security Agreement).*
- *The equipment shipments were February 2011 – April 2011; which pre-dates the signing of the MOU and the Loan Agreement.*

OSA reviewed the MOU, Loan Agreement, and the Security Agreement between the MDA and GreenTech for the issuance of the \$3 million loan, which was required to be used for reimbursing cost incurred by the Company; however, each contract stated in the above language was dissimilar for the usage of the loan proceeds.

- *The MOU: states the loan proceeds should have been for reimbursing costs incurred by the Company for site preparation (Article III, Section 3.2(ii)).*
- *The Loan Agreement: states the loan proceeds should have been for reimbursable costs incurred by the Borrower for new improvements, site preparation, fixtures, and equipment for use in the manufacturing of automobiles (Article I, Cost or Cost of the Project).*
- *State of Mississippi Payment Voucher: states the reimbursements were for Site Preparation.*
- *The Security Agreement: states the proceeds of the Loan were to be used for site preparation, to enable Debtor (GreenTech) to acquire specific fixtures and equipment to be used by the Debtor in the manufacturing of automobiles and equipment which fixtures and equipment comprise the Collateral subject to the agreement. (Recitals- Page 1).*

OSA reviewed MDA's reimbursements to GreenTech, which were received and approved by MDA on February 8, 2012. MDA made one (1) reimbursement to the company an amount totaling \$3 million on February 22, 2012. OSA notes the following:

- *7 invoices submitted were dated before the signing of the MOU;*
- *16 invoices submitted were dated before the signing of the Loan Agreement; and*
- *7 invoices indicated items were shipped to other states and not to the Tunica, MS location.*

Conclusion:

GreenTech Automotive entered into an agreement with the State of Mississippi signing the MOU on July 20, 2011. As shown above, GreenTech failed to perform several critical requirements of the

Understanding, the Loan and Security Agreements. Article 5 of the MOU states remedies for failure to perform which includes, “A sum equal to the outstanding balance of the Company Loan plus all costs of issuance and interest incurred by the State shall be paid by the Company to the State within sixty (60) days of written demand by the state.” (MOU Article 5, Section 3 (i)) OSA determines that GreenTech should return the balance of all funds received by and on behalf of the State of Mississippi.

Below is a time line that illustrates the activity of the GreenTech Automotive Inc. project.

Timeline

| Project Activity | Date | Amount |
|--|------------|-----------------|
| Tunica County was issued the Growth and Prosperity Certificate | 1/17/2002 | |
| Gulf Coast Automotive Investment Fund was established to help raise funding for GreenTech | 8/15/2009 | |
| Memorandum of Understanding was signed by the President of Tunica County Board of Supervisor and GreenTech's CEO | 07/20/2011 | |
| Memorandum of Understanding was signed by MDA Executive Director | 07/25/2011 | |
| Applications for the MS Industry Incentive Financing Revolving Fund was approved by MDA (GreenTech loan of \$3 million and the County Loan of \$2 million) | 09/06/2011 | |
| Loan Agreement between the MDA and the Tunica County Board of Supervisors was signed | 09/06/2011 | |
| Loan Agreement between the MDA and GreenTech Automotive Inc. was signed | 09/06/2011 | |
| Security Agreement between MDA and GreenTech was entered into | 09/06/2011 | |
| MDA issued the Industry Incentive Financing Revolving loan to Tunica County | 11/15/2011 | \$1,879,292.00 |
| GreenTech submitted request for reimbursements | 01/24/2012 | \$3,005,817.55 |
| Reimbursements to GreenTech were approved by MDA | 02/08/2012 | |
| MDA issued the Industry Incentive Financing Revolving loan to GreenTech | 02/12/2012 | \$3,000,000.00 |
| MDA conducted a site visit to GreenTech | 02/16/2012 | |
| Tunica County was designated as a Foreign Trade Zone | 11/19/2012 | |
| Tunica County Board of Supervisors 1st loan payment was due (Payments are due annually on the first day of January) | 01/01/2013 | |
| Confidential Private Placement MOU was executed to sell 120 shares of its Series A-2 Preferred Stock | 03/12/2013 | |
| Company begin construction of the Tunica facility | 07/08/2013 | |
| MDA sent letter to OSA detailing the GTA project | 08/05/2013 | |
| MDA sent letter to Tunica County Board of Supervisor informing them of their missed loan payment that was due January 1, 2014 | 01/08/2014 | \$ 131,568.30 |
| Security and Exchange Filing | 09/24/2014 | |
| GTA notified MDA of its Preliminary Production Schedule | 10/01/2014 | |
| Date the capital investment was to be met (OSA has no documentation from GreenTech or MDA indicating how much money was actually invested at the Project site by GreenTech) | 12/31/2014 | \$60,000,000.00 |
| GreenTech was to create not less than 350 new full-time jobs at the Project Site by the <u>earlier</u> of December 31, 2014 or within three (3) years after the Start of Commercial Production (10/5/15) and maintain such jobs for a period of ten (10) years | 12/31/14 | |

| | | |
|---|------------|--------------|
| First loan payment was due from GreenTech | 06/30/2015 | |
| GreenTech Start of Production (per Company's website) | 10/05/2015 | |
| MDA notified GreenTech of their loan payment default | 07/07/2016 | |
| MDA notified GreenTech it would “agree to forebear from exercising its remedies for an additional ninety (90) days”; Therefore, GreenTech had until November 7, 2016 to remit payment to MDA in accordance with the Loan Agreement and MDA’s notice letter dated July 7, 2016 | 08/09/2016 | |
| GreenTech first and only payment | 11/01/2016 | \$150,000.00 |
| OSA issued a Subpoena to GreenTech | 11/21/2016 | |
| MDA request amortization schedule and amended MOU from GreenTech | 12/07/2016 | |
| GreenTech employed 53 employees as of | 12/31/2016 | |
| MDEQ - Workers Adjustment and Retraining Notifications | 03/01/2017 | |
| OSA issued Formal Demand to GreenTech Automotive for \$6,360,019.60 | 07/05/2017 | |