

# **Accessibility of Public Records Relating to Oregon's Economic Development Tax Expenditures**

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## Accessibility of Public Records Relating to Oregon's Economic Development Tax Expenditures

The ability to see how government uses public resources is fundamental to democracy. Transparency in government spending checks corruption, bolsters public confidence, and promotes fiscal responsibility.

While the state is making strides in transparency within other areas of tax spending, Oregon's transparency of economic development tax incentive programs is poor. Oregon's Tax Expenditure Report<sup>1</sup> (TER) does provide broad overviews of each of these programs, at least enough for the public to know that about \$600 million per biennium flows to corporations through economic development tax breaks. However, the TER doesn't allow taxpayers to see which companies received tax breaks, how much they received in tax dollars, and what the companies delivered in exchange for taxpayers' investment (such as new jobs created). This information is essential to holding these programs accountable for results.

In the summer of 2010, to better understand how economic development tax dollars are spent and to test just how easy it is for an average citizen to access this information, OSPIRG submitted public records requests to four different state agencies requesting information about the following seven economic development tax expenditure programs:

- Strategic Investment Program (SIP)
- Oregon Investment Advantage (OIA)
- Electronic Commerce Enterprise Zone (ECEZ)
- Qualified Research Activities (QRA)
- Business Energy Tax Credit (BETC)
- Oregon Affordable Housing Lender's Credit
- Food Processing Equipment property tax abatement

We requested the following information:

- The name of each company that benefits from the program.
- The address of each company that benefits from the program.
- The amount of tax benefit each company has received through this program.
- The amount of jobs and/or other benefits reported by the business as a result of receiving the benefit of this program.
- The deliverables the company promised in order to receive this tax benefit, if any.

We used the information provided in the Tax Expenditure Report (TER) to determine which agency to submit each request to. We also asked each agency to redirect us if we had inadvertently made the request to the wrong agency. According to the TER, the first four programs are analyzed by Business Oregon, formerly known as the Oregon Economic and Community Development Department. The latter three are administered by the Oregon Department of Energy (ODOE), Oregon Housing and Community Services (OHCS), and the Oregon Department of Agriculture (ODA) respectively.

All requests to the agencies were initially sent on August 11. In an effort to request the information in a way that an average citizen would be likely to make the request, we utilized a tool created by transparency advocacy organization Open Oregon that automatically generates public records request letters through its website.<sup>2</sup>

## FINDINGS

**Public Records requests are not handled in a timely manner.** None of the requests were fulfilled until at least two months after the initial request. It took over one month for one agency to even acknowledge the requests made to them. See Table 1 for details.

**The amount of information provided, when provided at all, is inadequate.** None of the requests were fulfilled in full. The program for which we received the most information, the Electronic Commerce Enterprise Zone program, failed to provide information about what each company promised for their tax credit. We received some but not all information requested about three other programs: the Strategic Investment Program, Oregon Investment Advantage, and the Affordable Housing Lender's Credit. Three out of the seven requests were not granted at all: BETC, Food Processing Equipment, and the Qualified Research Activities (QRA) Credit. See Table 2 for details.

**Expensive processing fees and inter-departmental runaround are common barriers to obtaining information.** We would have been required to pay a prohibitively expensive \$300 fee in order to receive requested information about the requested BETC program. Meanwhile, our original requests about the Food Processing Equipment and QRA programs were referred from the Oregon Department of Agriculture and Business Oregon respectively to the Department of Revenue (DOR). To date, DOR has not acknowledged or otherwise responded to either request. Oregon Housing and Community Services (OHCS) at first told us they did not have the data we requested, and that we would need to seek it from DOR. However, after several more emails and phone conversations, it was revealed that OHCS did have the information we sought, and provided it 11 weeks after our initial request.

Our experience indicates that it is difficult to nearly impossible for even the most highly motivated citizens to obtain basic information about economic development tax programs in Oregon. Moreover, our experience suggests that existing public records law is insufficient to allow reasonable access to critical information about how Oregon's tax dollars are spent.

The problems we encountered mirror those highlighted by the Oregon Attorney General's report on government transparency and the public's access to public records. After a lengthy review of public records laws and a process of taking public input, Attorney General Kroger issued a report highlighting the timeliness of responses, excessive fees, and broad and unclear exemptions to the public records laws as the primary obstructions to public records.<sup>3</sup>

## RECOMMENDATIONS

1. It should not take a public records request to obtain basic information about how economic development tax dollars are spent. Instead, that information should be posted online at the Transparency Oregon website. The data should, at a minimum, allow taxpayers to see which companies received tax breaks, how much tax dollars those companies received, and what the companies delivered in exchange for taxpayers' investment (such as new jobs created). The agencies responsible for collecting information about economic development tax expenditures should provide the data directly to the Oregon Department of Administrative Services (DAS) for posting at [www.oregon.gov/transparency](http://www.oregon.gov/transparency).

2. Public records law should be improved to make the process more transparent and responsible to taxpayers, including:

- Clear and reasonable timeframes must be established for responding to public records requests. It should take agencies no more than two days to acknowledge the request, and ten days to fulfill the request.
- Costs to the requestor of public records should be standardized and reduced to limit the financial barrier to information.

**Table 1. Responses to Public Records Requests**

Agency	Program	Time for 1 <sup>st</sup> response	Fee	Time to receive information	Completeness of information
Oregon Department of Energy	Business Energy Tax Credit (BETC)	5 days	\$292.50	N/A	N/A
Business Oregon	Strategic Investment Program (SIP)	40 days	None	56 days	Partial
Business Oregon	Oregon Investment Advantage (OIA)	40 days	None	56 days	Partial
Business Oregon	Electronic Commerce Enterprise Zone (ECEZ)	40 days	None	56 days	Complete
Business Oregon	Qualified Research Activities (QRA)	40 days	None	N/A	N/A
Department of Revenue	Qualified Research Activities (QRA)	No response	N/A	N/A	N/A
Oregon Housing and Community Services	Oregon Affordable Housing Lender's Credit	7 days	None	67 days	Partial
Oregon Department of Agriculture	Food Processing Equipment abatement	20 days	N/A	N/A	N/A
Oregon Department of Revenue	Food Processing Equipment abatement	No response	N/A	N/A	N/A

**Table 2. How much information was provided for each request**

Program	Name of company	Address of company	Amount of tax reduction	Outcomes promised	Outcomes delivered
Business Energy Tax Credit (BETC)	No	No	No	No	No
Strategic Investment Program (SIP)	Yes	County or town only	Yes	No	No
Oregon Investment Advantage (OIA)	Yes	Yes	for some	No	Yes
Electronic Commerce Enterprise Zone (ECEZ)	Yes	Yes	Yes	No	Yes
Qualified Research Activities (QRA)	No	No	No	No	No
Oregon Affordable Housing Lender's Credit	Yes	Yes	Yes	No	No
Food Processing Equipment abatement	No	No	No	No	No

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The author bears responsibility for any factual errors. The recommendations are those of the OSPIRG Foundation. The views expressed in this report are those of the author and do not necessarily reflect the views of our funders or those who provided review.



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## Endnotes

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- 1 The Tax Expenditure Report we used is available at <http://www.oregon.gov/DOR/STATS/exp09-11-toc.shtml>
- 2 Open Oregon's request generator is available at <http://www.open-oregon.com/form-letters/create-a-record-request/>
- 3 "Attorney General's Government Transparency Report," October 7, 2010. [http://www.doj.state.or.us/pdf/government\\_transparency\\_report.pdf](http://www.doj.state.or.us/pdf/government_transparency_report.pdf)