

Shining a Light on the Arizona Commerce Authority

The Need for Stronger Transparency and
Accountability Standards at the State's
Economic Development Corporation

Arizona PIRG
Education Fund



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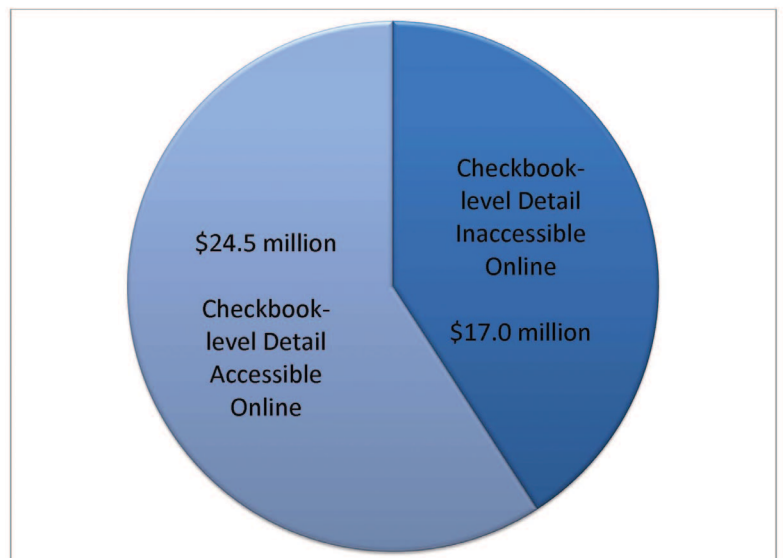
Executive Summary

Arizonans deserve to know how their taxpayer dollars are spent – including when their tax dollars are given as subsidies to corporations. Transparency enables citizens to hold governments and companies accountable, promotes fiscal responsibility, and bolsters public confidence in government. Today, the standard of transparency for state spending is to post checkbook-level information on a central government website – allowing taxpayers and decision-makers to view the awards and payments given to individual companies and vendors. However, more than a year after the creation of the Arizona Commerce Authority – the new state entity responsible for distributing the state’s economic development subsidies – the Commerce Authority discloses information online for only a portion of its economic development funds.

Since the start of 2011, the Arizona Commerce Authority has disclosed checkbook-level detail online for 59 percent of the \$41.5 million awarded to companies in grants and tax credits. Checkbook-level detail on the other 41 percent – or \$17.0 million – is not readily accessible to the public. While the initial

disclosures are a positive first step, the lack of complete transparency prevents Arizonans from ensuring that every subsidy is a worthwhile investment. (See Figure ES-1.)

Figure ES-1: The Arizona Commerce Authority’s Grants and Tax Credits Online Accessibility



In the Arizona Commerce Authority's second year, it should take concrete steps toward greater transparency and accountability and ensure that all taxpayer dollars are spent wisely.

The Commerce Authority provides checkbook-level subsidy information online for a portion of its programs.

- The Commerce Authority's website provides the names of subsidy recipients and the subsidy value – known as checkbook-level detail – for four out of the 13 incentive programs that award tax credits and grants: the Arizona Job Training program, the Arizona Competes Fund, the Rural Economic Development Grant program and the Arizona Fast Grant program.
- The grants and tax credits awarded through these programs constitute \$24.5 million of the \$41.5 million distributed by the Commerce Authority since the beginning of 2011. Checkbook-level detail on the other \$17.0 million is not accessible online.
- The \$41.5 million awarded by the Commerce Authority represents only a fraction of the funds it is authorized to spend – every year the Commerce Authority can award up to \$151.2 million in grants and tax credits.

The Arizona Commerce Authority does not yet require all subsidy recipients to deliver specific results.

- Information is generally lacking about what economic development benefits are expected as a result of subsidies to particular companies, such as jobs, wages, property taxes or other private investment. The Commerce Authority discloses online information about the specific benefits companies are expected to deliver in return for their subsidies for only one of its 15 sub-

dy programs – the Arizona Competes Fund – which constitutes only 12 percent of the Commerce Authority's total incentive expenditures since the start of 2011.

- The Commerce Authority conducts after-the-fact assessments on whether companies actually do deliver promised benefits for two programs – the Arizona Competes Fund and the Rural Economic Development Grant – and plans to publicly disclose these assessments for the Arizona Competes Fund.
- When companies that receive subsidies fail to deliver on promised economic development benefits, the Commerce Authority can reclaim taxpayer subsidies for only the Arizona Competes Fund.

While the Commerce Authority has adopted some practices to ensure subsidies are awarded in the public interest, weak safeguards do not completely prevent special interests from unduly influencing award decisions.

- To prevent conflicts of interest, the Commerce Authority requires that board members and staff refrain from voting on or participating in award decisions that could benefit or harm them personally.
- The Commerce Authority has placed stringent limits on the gifts board members and staff can accept from companies, and it has posted its gift policy online. However, details on individual gifts of less than \$50 given to board members and staff by companies are not made available online, preventing the public from easily monitoring whether the gift policy is being properly followed or if companies are improperly influencing the Commerce Authority's decisions.

- Conflicts of interests can arise because the Commerce Authority accepts funds from private companies to pay its CEO, rent and other operating costs. Such gifts to the Commerce Authority can potentially create an improper incentive to award subsidies to benefit these companies directly or indirectly.

The Arizona Commerce Authority should adopt practices to increase transparency and accountability to the public and to maximize the benefits achieved from development incentives.

- The Commerce Authority should post to its website – and/or the state of Arizona’s transparency website – checkbook-level detail on the subsidies not currently disclosed online. The Commerce Authority should post checkbook-level detail for all subsidies awarded in the future.
- The Commerce Authority should clearly specify the expected economic benefits – such as the number of jobs created, number of employees trained, or increased property tax revenue generated – in all subsidy contracts and make all contracts and subsidy agreements available online.
- The Commerce Authority should conduct, and make available online, after-the-fact assessments for all subsidy programs to determine whether recipient companies are delivering expected benefits.
- The Commerce Authority should recoup subsidy funds – either in their entirety or on a pro-rated basis – from all companies that fail to produce the deliverables in the subsidy agreement.
- To eliminate potential conflicts of interest, the Commerce Authority should post details on individual gifts online and stop accepting funds and in-kind donations from private companies.

Introduction

In recent years Arizona's government has taken many steps to open the state's checkbook to taxpayers. As the recession and slow economic recovery has tightened purse strings for Arizona's government, spending transparency enables citizens to ensure that every expenditure is a worthwhile allocation of the state's limited resources.

In late 2010, Arizona's Department of Administration launched OpenBooks, the state's transparency website, which provides citizens with vendor-specific details on nearly every expenditure made by state government. In March 2012, Governor Jan Brewer used a recent study by the Arizona PIRG Education Fund – which rated OpenBooks as one of the most comprehensive and user-friendly transparency websites in the country – to showcase the state's transparency efforts.¹ “It is gratifying,” said Governor Brewer, “to see that Arizona is at the forefront of the national movement to improve openness in government.”²

However, there is at least one corner of Arizona government where it remains difficult for taxpayers to determine how their money is being spent. Since 2011,

when the state legislature officially authorized the Arizona Commerce Authority – a new state-created corporation responsible for distributing economic development subsidies – the Commerce Authority has come under scrutiny for its opaque business practices and spending. For example, out of the millions of dollars distributed in subsidies by the Commerce Authority, not a single piece of recipient-specific subsidy information is available on OpenBooks, and recipient-specific information on only a portion of the Commerce Authority's expenditures is reported on its website.³

Arizona's next step toward greater transparency should be to shine a light on all of the Commerce Authority's spending. As the Commerce Authority begins its second year, enough time has passed to assess its progress toward transparency and accountability. Now is the time to establish practices that promote transparency and accountability that set a standard for the future. By doing so, the Commerce Authority can enable citizens to ensure that every development incentive is a worthwhile investment decision for Arizona today and in the years to come.

State Economic Development Corporations Require Heightened Levels of Transparency and Accountability

A “state economic development corporation” is a corporate entity created by the state and delegated the responsibility and resources to advance a state’s economic development efforts. A state corporation carries out government functions, but has its own board of directors, manages its own budget, and has its own decision-making processes. Such an entity may be given the ability to issue grants, tax credit awards, low-interest loans or other benefits to companies that are expected to generate economic development activities, such as job creation, increased wages, research, training, infrastructure, and plants and equipment for future jobs.

When quasi-independent state corporations assume responsibilities traditionally held by government departments, transparency and accountability are often sacrificed. Because state corporations are not overseen by government bodies but rather their own CEOs and boards of directors, they are not accountable to the taxpayers who fund their programs. In addition, state corporations are sometimes exempt from state requirements that promote good gov-

ernance, such as reporting and open records laws.

The lack of transparency and accountability poses particular problems with regard to economic development subsidies. These programs transfer millions of dollars from government coffers to the bank accounts of particular companies. When bodies composed of company executives determine the rules for disbursing these funds – and even select the individual companies receiving the money – the potential for conflicts of interest to lead to the misallocation of taxpayer dollars is heightened.

State economic development corporations can potentially waste and abuse taxpayer dollars in the following ways:

- *Lack of transparency:* State economic development corporations can have weak reporting requirements, leaving taxpayers and decision-makers unable to ensure that every subsidy is a worthwhile investment. Specifically, these corporations often do not disclose information online identifying the recipients of subsidies, the value of the subsidies, or the specific pub-

lic benefits the subsidies are intended to deliver.

- *Subsidy recipients left unaccountable for delivering promised results:* State economic development corporations often do not conduct after-the-fact assessments on companies receiving subsidies to determine whether the companies are following through on their economic development deliverables. Even when development corporations do conduct such assessments, they often fail to reclaim subsidies from companies that fall short on their promises.
- *Favoritism and self-dealing:* Board members and staff of economic development corporations are often chosen for their close ties to the business community – ties that are believed to give these individuals special insight into economic development.

However, these same ties can lead to the awarding of incentives based on personal or professional connections or economic self-interest.

- *Projects that promote narrow special interest agendas:* Since rules for gifts and corporate contributions can be much looser for state economic development corporations than typical government agencies, companies and private funders can unduly influence a development corporation's investment decisions by providing funding for the corporation or giving gifts to its board members and staff.

Because of the unique ways in which state economic development corporations can misuse public dollars, it is important that these organizations meet the highest standards of transparency and accountability.

Best Practices to Ensure State Economic Development Corporations Uphold the Public Interest

To protect against the waste and abuse of taxpayer dollars, state economic development corporations should adopt policies that promote transparency, accountability and ethical business practices, and that protect the public interest. In addition, development corporations should make

pertinent information available online so that the public can monitor the Commerce Authority and speak out against waste and abuse. See Table 1 for a list of practices development corporations should adopt and corresponding pertinent information to post online.

Table 1: List of Best Practices State Economic Development Corporations Should Adopt and Make Available Online

| Best Practice | Description | Pertinent Information to Post Online |
|---|---|--|
| Disclose checkbook-level detail on subsidy data | Development corporations should post online the value of individual awards granted to all subsidy recipients. | The value of individual awards granted to all subsidy recipients |
| Set economic development deliverables | Development corporations should write economic development deliverables – such as the number of jobs created, wages and employee benefits, number of employees trained, or increased property tax revenue collected – into all contracts. | Deliverables for every recipient |

Table 1 continued

| Best Practice | Description | Pertinent Information to Post Online |
|---|--|---|
| Disclose records of contracts and agreements | Development corporations should post online all contracts and agreements signed between the corporation and subsidy recipients, and all incentive proposals and applications when appropriate. | All contracts and agreements signed between the development corporation and subsidy recipients, as well as all appropriate incentive proposals and applications |
| Perform after-the-fact assessments on economic development benefits generated | Development corporations should conduct after-the-fact assessments on all companies receiving subsidies to determine whether they are following through on creating the expected benefits specified in the subsidy agreement. The assessments should clearly specify whether companies delivered fully on expected development benefits or what portion of benefits were generated as a result of the subsidy. | Copies of after-the-fact assessments |
| Recoup development funds | Development corporations should reclaim incentive funds – either in their entirety or on a pro-rated basis – from all companies who fail to deliver on the economic development benefits in subsidy agreements. | Instances and amounts of subsidies reclaimed |
| Put limits on gifts | Development corporations should prohibit or put stringent limits on the value of gifts the development corporations' board members and staff can receive from all companies and potential subsidy recipients. | Details on each gift received including the value, donating company, and recipient; policies on gifts |

Table 1 continued

| Best Practice | Description | Pertinent Information to Post Online |
|--|--|--|
| Prevent conflicts of interest | Development corporations' decisions should be based on the public interest. Corporations should establish policies that exclude all board members and staff from participating in decisions from which they stand to directly or indirectly benefit or suffer. Additionally, state development corporations should not accept funding of any kind from any private company, especially those with business before the corporation. | Instances of staff or board members recused from votes or decisions; policies on conflicts of interest |
| Create a process for challenging subsidies | Development corporations should create processes by which existing businesses can challenge subsidies that place rival firms at a competitive advantage. | Instances of challenges to subsidies and an explanation for the decision regarding each challenge |
| Hold open board meetings | Development corporations should allow the public to attend board meetings and should establish a process, such as a public comment period, by which the public can comment on the board's decisions. | Meeting minutes with records of each board members' votes |
| Obtain an independent audit | Development corporations should have an independent audit regularly. | Copy of the audit |

A Portion of Spending by the Arizona Commerce Authority Lacks Transparency and Accountability

In the year since its creation, the Arizona Commerce Authority – the new state corporation responsible for distributing the Arizona’s economic development subsidies – has adopted some practices that promote transparency and accountability, and fight against the waste and abuse of tax dollars. However, current shortcomings in the Commerce Authority’s policies fail to ensure every taxpayer dollar is spent wisely.

The Arizona Commerce Authority Is a New State-Created Economic Development Corporation that Dispenses State Subsidies

The Arizona Commerce Authority was created with the stated intention to attract jobs and companies to Arizona and grow

businesses already located in the state, through the use of economic development incentives. The Commerce Authority’s incentives range from grants awarded directly to companies moving to Arizona to tax credits for renewable energy. In addition, the Commerce Authority provides businesses with resources, such as lists of available properties and reports on certain industries and cities.⁴

The Arizona Commerce Authority was signed into law in February 2011 and replaced the Arizona Department of Commerce, an agency within the executive branch that had similar responsibilities.⁵ While the Department of Commerce was overseen and controlled by the governor’s office, the Commerce Authority is overseen and controlled by a Board of Directors, which is led by Governor Brewer and made up of corporate and governmental leaders.⁶ (See Table 2.) The Commerce Authority operates largely from public funds appropriated by the legislature, but manages its own budget, has its own board

Table 2: Arizona Commerce Authority Board of Directors⁷

| Board Member | Position | Company |
|-------------------------------------|---|---------------------------------|
| Governor Jan Brewer (Chairman) | Governor | State of Arizona |
| Jerry Colangelo (Co-Chairman) | Principal Partner | JDM Partners |
| Don Cardon (outgoing ⁸) | President and CEO | Arizona Commerce Authority |
| Gary Abrams | President and CEO | Abrams Airborne Manufacturing |
| Richard Adkerson | CEO and President | Freeport McMoRan Copper & Gold |
| Craig Barrett | Chairman of the Board and CEO (retired) | Intel |
| Michael Bidwill | President | Arizona Cardinals |
| Paul Bonavia | Chairman, President and CEO | Tucson Electric Power |
| Drew Brown | Founder and Chairman of the Board | DMB Associates |
| Philip Francis | Executive Chairman | Petsmart, Inc. |
| Mike Ingram | CEO and President | El Dorado Holdings |
| Tim Jeffries | Founder | P7 Enterprises |
| Steve Macias | President and CEO | Pivot Manufacturing |
| Michael Manson | Co-Founder and Executive Chairman | Motor Intelligence |
| Mary Peters | President | Mary E. Peters Consulting Group |
| Doug Pruitt | Chairman and CEO | Sundt Construction |
| Victor Smith | President and Owner | JV Farms |
| Candace Hunter Wiest | President and CEO | West Valley National |
| Roy Vallee | Executive Chairman | Avnet |

Note: The ex-officio members of the Board, such as the President of the Senate and Speaker of the House of Representatives, are not listed.

of directors, and makes its own decision-making processes.

Since 2011, the Commerce Authority has awarded \$41.5 million in grants and tax credits to companies and other entities through at least 13 subsidy programs. (See Table 3. Note: the Commerce Authority has another two programs that provide technical assistance and loans.) The \$41.5 million awarded by the Commerce Authority represents only a fraction of the funds it is authorized to spend – every

year the Commerce Authority can award up to \$151.2 million in grants and tax credits. Under the management of both the Department of Commerce and the Commerce Authority, the number of subsidy programs has grown significantly in recent years – more than half have been launched since 2009.¹⁰ For 2011, the Commerce Authority claimed that its incentives helped attract nearly 11,000 jobs and \$9 billion of investments.¹¹

Table 3: The Arizona Commerce Authority's Incentive Programs¹²

| Name of Program | Description ¹³ | Total Tax Credits and Grants Awarded Since January 2011 | Tax Credits and Grants with Checkbook-level Detail Online ¹⁴ | Maximum Funds Authorized to Be Distributed per Year ¹⁵ |
|--|---|---|---|---|
| Arizona Job Training Program | Grants to reimburse companies for training expenses | \$17,847,223 ¹⁶ | \$17,847,223 ¹⁷ | \$15,000,000 ¹⁸ |
| Renewable Energy Tax Incentive Program | Tax credits and reductions in property tax rates for renewable energy companies | \$6,400,000 ¹⁹ | \$0 | \$70,000,000 ²⁰ |
| Arizona Competes Fund | Grants to companies moving into Arizona | \$5,000,000 ²¹ | \$5,000,000 ²² | \$25,000,000 ²³ |
| Research and Development Income Tax Credit | Tax credits for research and development | \$4,323,872 ²⁴ | \$0 | \$5,000,000 ²⁵ |
| Rural Economic Development Grant Program | Grants to rural communities to initiate and sustain economic development projects ²⁶ | \$3,500,000 ²⁷ | \$1,500,000 ²⁸ | \$1,500,000 ²⁹ |
| Small Business Capital Investment Tax Incentive Program (Angel Investment Program) | Tax credits to small businesses for new investments | \$1,930,896 ³⁰ | \$0 | \$2,000,000 ³¹ |
| Arizona Innovation Challenge | Grants to technology ventures | \$1,500,000 ³² | \$0 | \$1,500,000 ³³ |

Table 3 continued

| Name of Program | Description ¹³ | Total Tax Credits and Grants Awarded Since January 2011 | Tax Credits and Grants with Checkbook-level Detail Online ¹⁴ | Maximum Funds Authorized to Be Distributed per Year ¹⁵ |
|---|--|---|---|---|
| Commercial/Industrial Solar Energy Tax Credit Program | Tax credits to companies for solar installations | \$796,970 ³⁴ | \$0 | \$1,000,000 ³⁵ |
| Arizona Fast Grant | Grants to technology companies to commercialize their products | \$184,832 ³⁶ | \$184,832 ³⁷ | \$175,000 ³⁸ |
| Quality Jobs Tax Credit Program | Tax credits for the creation of new jobs | \$0 ³⁹ | \$0 | \$30,000,000 ⁴⁰ |
| Healthy Forest Enterprise Incentives Program | Tax exemptions and credits for timber companies | \$0 ⁴¹ | \$0 | unknown |
| Military Reuse Zone Program | Tax exemptions, credits, and rate reductions for businesses within former military zones | unknown ⁴² | \$0 | unknown |
| Enterprise Zone Program | Tax credits for non-retail businesses in specific geographic areas ⁴³ | unknown ⁴⁴ | \$0 | unknown |
| Arizona State Trade and Export Promotion Program (STEP) | Technical assistance to small businesses on entering international markets | not applicable (neither tax credit nor grant award) | not applicable | not applicable |
| Innovation Accelerator Fund Program | Loan program to small businesses and manufacturers | not applicable (neither tax credit nor grant award) | not applicable | not applicable |

The Commerce Authority's signature incentive program is the \$25 million Arizona Competes Fund, a kind of "deal-closing fund," which allows the organization to award grants quickly to entice companies to relocate to Arizona.⁴⁵ The state legislature created the Arizona Competes Fund believing that the money spent on attracting a company to the state would be worth the hundreds of jobs created once the company is up and running. The Commerce Authority awarded its first grant from the deal-closing fund to Clear Energy Systems in October 2011, and has awarded three other grants since then, totaling upwards of \$5 million. (See Table 4.) The 14 other subsidy programs managed by the Commerce Authority promote

job training, research and development, and company expansion. (See Table 3.) Since the start of 2011, the Commerce Authority has awarded \$36.5 million in grants and credits through 12 of these programs (two of the programs provide loans and technical assistance but do not give out grants and credits).

In terms of authorized spending levels, the biggest of these programs is the Renewable Energy Tax Incentive Program, which allows the Commerce Authority to award up to \$70 million in tax credits to renewable energy companies annually (plus rollover from the previous year).⁴⁸ The program can also administer property tax reductions for creating high-paying renewable energy jobs.⁴⁹

Table 4: Recipients of Grants from the Arizona Competes Fund⁴⁶

| Quarter of Award | Company | Good or Service | Number of Jobs to Be Created | Average Wage | Grant from Arizona Competes Fund |
|--|-----------------------|--|------------------------------|----------------------|----------------------------------|
| 2 nd Quarter (October-December 2011) | Clear Energy Systems | Manufactures portable generators | 225 | \$65,000 | \$1 Million |
| 3 rd Quarter (January-March 2012) | Silicon Valley Bank | Provides financial services to technology and private equity companies | 220 | \$88,000 | \$3 Million |
| 3 rd Quarter (January-March 2012) | Ulthera | Manufactures aesthetic medical equipment | 111 | \$67,000 | \$1 Million |
| 4 th Quarter (April-June 2012) | OptumRx ⁴⁷ | Distributes and sells pharmaceuticals | Unknown at this time | Unknown at this time | Unknown at this time |

The second biggest program is the Quality Jobs Tax Credit Program, which gives tax credits to employers to create jobs in the state. Under the program, a single employer is eligible for a tax refund of \$3,000 annually for a new employee's first three years, and can receive credits for up to 400 employees in one year.⁵⁰

Arizona Commerce Authority Policies Fall Short in Safeguarding the Public Interest

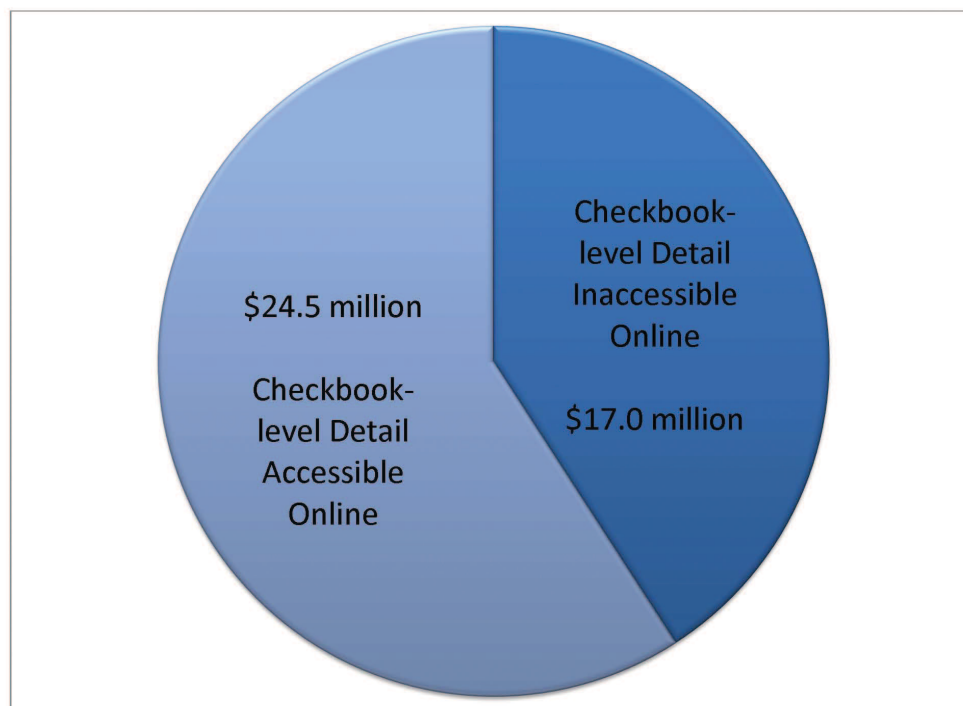
In the year since its creation, the Arizona Commerce Authority has adopted some practices that protect the public interest and fight against waste and abuse. Taxpayers and public officials can monitor investment decisions online for four of the Commerce Authority's 15 subsidy programs and the Commerce Authority can reclaim subsidies for one of them if recipient companies fail to produce their promised economic development benefits. The Commerce Authority has also taken steps to eliminate one of the biggest potential problems of corporatized economic development – private companies unfairly influencing investment decisions for their own gain.

Although the Arizona Commerce Authority has adopted some practices that promote transparency and accountability, the Commerce Authority's policies fail to ensure every taxpayer dollar is spent wisely: details on many of the Commerce Authority's investments remain inaccessible online to taxpayers and decision-makers; the Commerce Authority lacks mechanisms to hold the majority of subsidy recipients accountable for producing promised economic development benefits; and the Commerce Authority has yet to adopt many other best practices that ensure development funds are spent in the public interest.

Below is an assessment on the extent to which the Arizona Commerce Authority has adopted best practices for state economic development corporations. (Each feature below corresponds to a feature in Tables 1 and 5.)

- *Disclose checkbook-level detail on subsidy data:* The Commerce Authority provides recipient-specific subsidy information online for a portion of its programs. The Commerce Authority's website provides the names of subsidy recipients and the subsidy value – known as checkbook-level detail – for four out of the 13 incentive programs that award tax credits and grants: the Arizona Job Training program, the Arizona Competes Fund, the Rural Economic Development Grant program (for subsidies awarded in 2012, but not 2011) and the Arizona Fast Grant program.⁵¹ The grants and tax credits awarded through these programs constitute \$24.5 million of the \$41.5 million distributed by the Commerce Authority since the beginning of 2011. Checkbook-level detail on the other \$17.0 million is not accessible online. (See Figure 1.)
- *Set economic development deliverables:* The Commerce Authority has made promised economic development benefits – such as the number of jobs created, number of employees trained or increased property tax revenue – available online for the Arizona Competes Fund, which constitutes \$5.0 million of the \$41.5 million distributed by the Commerce Authority since 2011. The economic development benefits for the other \$36.5 million are not available online.
- *Disclose records of contracts and agreements:* The Commerce Authority does not make copies of contracts and agreements with recipient companies accessible online for taxpayers and decision makers.

Figure 1: The Arizona Commerce Authority's Grants and Tax Credits Online Accessibility⁵²



- Perform after-the-fact assessments on economic development benefits generated:* Only the Arizona Competes Fund and Rural Economic Development Grant program conduct or request after-the-fact assessments to determine whether recipient companies have created the economic development benefits stipulated in the subsidy contracts and agreements. The Arizona Competes Fund has yet to request or conduct an after-the-fact assessment because it has only recently begun awarding funds, but plans to post the assessments online when recipient companies file their annual reports.⁵³
- Recoup development funds:* The Commerce Authority can reclaim subsidies from one incentive program – the Arizona Competes Fund – when recipient companies do not deliver on their promises of economic development benefits. If a recipient company fails to create the new jobs planned in the subsidy agreement, the Commerce Authority has written into the agreements that it can recoup the subsidy costs equivalent to the proportion of the unfulfilled development target.⁵⁴
- Put limits on gifts:* The Commerce Authority has placed stringent limits on the gifts board members and staff can receive from companies. According to the Commerce Authority's Gift Policy, board members, staff and anyone else working on the organization's behalf cannot accept any "gratuity, honoraria, favor, entertainment, gift card, lodging, discount, loan, or other item having monetary value" in excess of \$50 from any company or other entity. Tight rules are also placed on meals, travel expenses, and gifts from foreign governments.⁵⁵ These limits on gifts are intended to prevent companies and private funders from unduly influencing the

development corporation's investment decisions. The Commerce Authority has posted its gift policy online, but has yet to post details on each gift received of less than \$50 value.

- *Prevent conflicts of interest:* Commerce Authority board members and staff are required to recuse themselves from decisions when there is a potential conflict of interest. When board members and staff are in a position to benefit from or be harmed by a certain subsidy, they must refrain from voting or participating in the award decision.⁵⁶ This requirement prevents personal gain and nepotism from determining incentive recipients, and instead awards funds based on the merit of the companies and their ability to improve Arizona's economy. The Commerce Authority has also posted its conflicts of interest policy online.⁵⁷

The Commerce Authority has not eliminated all potential conflicts of interest. The Commerce Authority accepts funds from private companies to

pay its CEO, rent and other operating costs, potentially creating an incentive to award subsidies to benefit these companies and ensure a steady flow of private funds.⁵⁸

- *Create a process for challenging subsidies:* The Commerce Authority has yet to create a process by which businesses can challenge subsidies that place rival firms at a competitive advantage.
- *Hold open board meetings:* The Commerce Authority's board meetings are open to the public, allowing Arizonans to attend and monitor the decisions made in these meetings. However, the Commerce Authority makes available online only a portion of the minutes from these meetings, forcing decision-makers and the public to attend meetings if they want to monitor all the board's decisions.
- *Obtain an independent audit:* The Commerce Authority receives an independent audit at the end of every fiscal year for all public funds.⁵⁹

Table 5: List of Best Practices the Arizona Commerce Authority Has Adopted and Pertinent Information Made Available Online

Note: for a description of the Best Practices, see Table 1.

| Best Practice | Does the Arizona Commerce Authority Comply with the Practice? | Does the Arizona Commerce Authority Post Pertinent Information Online? (percent of information available) |
|---|---|--|
| Disclose checkbook-level detail on subsidy data | See next column | Partially – 59%: the recipients of \$24.5 million are available online out of the \$41.5 million distributed by the Commerce Authority since 2011 (see Table 4). |
| Set economic development deliverables | Partially – at least 20%: although economic development deliverables could be a part of many agreements, because of limited information online, Arizona PIRG Education Fund researchers could only identify deliverables in the Arizona Competes Fund and Rural Economic Development Grant agreements, which constitute \$8.5 million of the \$41.5 million awarded since January 2011. ⁶⁰ | Partially – 12%: The number of jobs agreed to be created by recipients of the Arizona Competes Fund, which constitutes \$5.0 million of the \$41.5 million distributed since 2011, is accessible online. ⁶¹ |
| Disclose records of contracts and agreements | No | No ⁶² |
| Perform after-the-fact assessments on economic development benefits generated | Partially – 20%: The Commerce Authority conducts assessments on subsidies awarded through the Arizona Competes Fund and Rural Economic Development Grants, which constitute \$8.5 million of the \$41.5 million awarded since January 2011. ⁶³ | Partially – 12%: The number of jobs created by recipients of the Arizona Competes Fund, which constitutes \$5.0 million of the \$41.5 million distributed, will be posted online when recipients submit their annual progress reports. ⁶⁴ |
| Recoup development funds | Partially – 12%: The Commerce Authority can recoup funds from the Arizona Competes Fund, which constitutes \$5.0 million of the \$41.5 million distributed, if recipient companies fail to reach their promised development benefits. ⁶⁵ | Partially – 12%: The Commerce Authority will post instances of subsidies recouped from the Arizona Competes Fund online. ⁶⁶ |

Table 5 continued

| Best Practice | Does the Arizona Commerce Authority Comply with the Practice? | Does the Arizona Commerce Authority Post Pertinent Information Online? (percent of information available) |
|--|--|--|
| Put limits on gifts | Yes ⁶⁷ | Partially: <ul style="list-style-type: none"> • Yes – policies on gifts are available online;⁶⁸ • No – details on each gift received are not available online⁶⁹ |
| Prevent conflicts of interest | Partially: <ul style="list-style-type: none"> • Yes – staff recuse themselves from votes where there is a conflict of interest⁷⁰ • No – the Commerce Authority receives funding from private companies⁷¹ | Unknown: <ul style="list-style-type: none"> • Instances of board members and staff having recused themselves from votes or decisions are not available online, however it is a possibility that no conflicts of interest have arisen; • Yes: Policies on conflicts of interest are available online⁷² |
| Create a process for challenging subsidies | No ⁷³ | No |
| Hold open board meetings | Yes – board meetings are open to the public and have a public comment period. ⁷⁴ | Partially: minutes from some meetings are available online and votes made in those meetings are available. ⁷⁵ |
| Obtain an independent audit | Yes ⁷⁶ | Unknown: the Commerce Authority will receive its first audit at the end of the current fiscal year. |

The Commerce Authority Should Adopt Practices to Protect the Public Interest

In the Arizona Commerce Authority's second year, it should adopt policies that promote transparency, accountability, fiscal responsibility and ethical business practices. By doing so, the Commerce Authority can ensure that every tax dollar spent is a worthwhile investment and maximize the economic development benefits achieved from subsidy programs.

- The Commerce Authority should post to its website – or the State of Arizona's transparency website – checkbook-level detail for all incentives. Checkbook-level detail will allow citizens and government officials to help ensure that every subsidy is a worthwhile expenditure for Arizona.
- The Commerce Authority should specify clear quantifiable expectations on the expected economic development benefits in every subsidy contract and agreement – all of which should be made accessible online
 - and should conduct after-the-fact assessments to ensure recipients are following through on the deliverables. When recipients fail to meet their deliverables, the Commerce Authority should recoup the subsidy funds.⁷⁷
- To prevent companies from unfairly influencing investment decisions, the Commerce Authority should not accept funding of any kind from private companies and report online all gifts received by staff and board members.
- The Commerce Authority should create a process by which existing businesses can challenge grants or other incentives that place rival firms at a competitive advantage.
- The Commerce Authority should promptly post minutes from all board meetings online.

Notes

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29 See note 26.

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[incentives/Angel-Investor/angel-tax-credit-allocation-table.pdf](http://www.azcommerce.com/assets/pdfs/incentives/Angel-Investor/angel-tax-credit-allocation-table.pdf), last updated 17 January 2012. Note: \$1,930,896 is an approximation. The Commerce Authority provides online the total credits distributed from the start of the program, 1 July 2006, to 17 January 2012 (\$10,267,704). \$1,930,896 was derived under the assumption that the Commerce Authority has distributed equal amounts of the credit each day.

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