



1536 SE 11th Ave., Ste. A | Portland, OR 97214

www.ospirg.org (503) 231-4181 (ph)  
info@ospirg.org (503) 231-4007 (fx)

The Honorable Ellen F. Rosenblum  
Oregon Department of Justice  
1162 Court Street NE  
Salem, OR 97301

February 19, 2013

Dear Attorney General Rosenblum,

In the 2013-15 biennium, Oregon taxpayers are projected to spend over half a billion dollars on corporate tax subsidies that are intended to create jobs and promote economic growth, according to the Tax Expenditure Report (TER). Taxpayers have spent comparable sums in recent biennia. OSPIRG believes that taxpayers have a right to know how their dollars are being used and whether or not a company is fulfilling deliverables, be it job creation or otherwise.

To be clear, OSPIRG does not believe that the public has carte blanche rights to open the books of a private company and see information that could be a trade secret. However, when a private company accepts public dollars in exchange for certain activities, the public should be able to view enough information so they can independently determine whether or not public dollars are being used properly. In the case of economic development tax subsidies, this information should include the amount of the subsidy to each recipient, deliverables committed and deliverables achieved including jobs created and retained, and any other outcomes linked to the subsidy.

The Strategic Investment Program is one of the largest tax subsidies used by companies in Oregon. The TER estimates that the program will cost taxpayers \$322.4 million in the 2013-15 biennium. Every year, companies that participate in the Strategic Investment Program are required to submit an Annual Employment Report to the Oregon Business Development Department to show that they are fulfilling their job creation and other deliverables in exchange for property tax abatement.

On January 16, 2013, OSPIRG requested the Annual Employment Reports for the Strategic Investment Program for 2011 and 2012 from the Oregon Business Development Department (OBDD). Paul Grove, the Government Relations Manager at OBDD responded on February 7, 2013 and indicated that the bulk of the information provided on the report are trade secrets and would need to be redacted, per ORS 192.501(2).

ORS 192.501(2) states:

*“The following public records are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance... (2) Trade secrets. “Trade secrets,” as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within an organization and which is used in a business it conducts, having actual or potential commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.”*

We argue that the public interest in determining whether or not public dollars are being used appropriately outweighs the concerns expressed by OBDD.

Moreover, it is important to be clear that the Annual Employment Report is narrow in scope and only relates to deliverables generated from the subsidy itself. For example, we seek only information about recipients’ employment creation related to the subsidy, not recipients’ overall employment footprint; hardly an unreasonable demand given the public’s investment in these activities.

The stakes of this public records request are high. Denial of our request would amount to an acknowledgement by the State of Oregon that the taxpayers who spend hundreds of millions of dollars every biennium on this program have no inherent right to know whether or not subsidy recipients are holding up their end of the deal. This would be a setback to government transparency and accountability and could have grave implications for the public’s trust in their state government.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Rosenfeld". The signature is fluid and cursive, with the first name "David" being the most prominent part.

David J. Rosenfeld  
Executive Director