

Economic Incentive Oversight Board

2019 Legislative Report

Reporting Period: January 2017 - December 2018



OFFICE OF THE GOVERNOR
ECONOMIC DEVELOPMENT & TOURISM

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Overview of the Economic Incentive Oversight Board

The Economic Incentive Oversight Board (Board) was established by House Bill 26 during the 84th Legislative Session. The Board is composed of nine public members appointed by the Governor, Lieutenant Governor, Speaker of the House, and Comptroller of Public Accounts. At least one of the appointees of the Lieutenant Governor and Speaker of the House must be from a rural county. Each appointing officer shall appoint at least one member who has expertise in the area of economic development. Administration of the Board is the responsibility of the Office of the Governor.

The Board has been charged with examining the effectiveness and efficiency of programs and funds administered by the Office of the Governor (OOG), the Comptroller of Public Accounts (TDA), and the Texas Department of Agriculture (TDA) that award to business entities and other persons state monetary or tax incentives for which the OOG, CPA, or TDA has discretion in determining whether or not to award the incentives. Monetary incentives may include grants, loans, or tax incentives paid from state revenues.

The Board is required to develop a performance matrix that clearly establishes the economic performance indicators, measures, and metrics that will guide the Board's evaluations of those programs and funds. The Board also is also tasked with developing a schedule for the periodic review of each state incentive program or fund that meets the statutory requirement for review by the Board. For each review conducted, the Board is to make recommendations regarding whether to continue the program or improve the program's effectiveness and efficiency. The Board may also recommend to the Legislative Audit Committee that an audit of the program be conducted.

Finally, the Board is required to submit a Biennial Report to the Legislature containing findings and recommendations resulting from each review. The required report is contained within.

Reporting Requirements

The contents of the Economic Incentive Oversight Board legislative report are outlined in Section 490G.007 of the Texas Government Code:

Sec. 490G.007. BIENNIAL REPORT. Not later than January 1 of each odd-numbered year, the board shall submit to the lieutenant governor, the speaker of the house of representatives, and each standing committee of the senate and house of representatives with primary jurisdiction over economic development a report containing findings and recommendations resulting from each review of state incentive programs and funds conducted by the board under this chapter during the preceding two calendar years.

Board Members

The following have been appointed to serve as members of the Economic Incentive Oversight Committee. The members of the Board serve at the pleasure of the appointing officer.

Appointed by the Governor:

Massey Villarreal, Presiding Officer – Sugar Land

Adriana Cruz – San Marcos

Trevor Pearlman – Dallas

Appointed by the Lieutenant Governor:

Anne Windfohr “Windi” Grimes – Houston

Vacant

Appointed by the Speaker of the House of Representatives:

Jim Goldsworthy – Gainesville

Mike Rosa – Dallas

Appointed by the Comptroller of Public Accounts:

Dale Fowler – Victoria

Catherine Q. Morse – Austin

Board Meetings

The Board held meetings during the preceding two calendar years on the following dates:

July 28, 2017

January 25, 2018

April 26, 2018

September 6, 2018

December 7, 2018

Economic Incentive Review Schedule

The Board is required to develop a schedule for the periodic review of each state incentive program or fund for the purpose of making recommendations on whether to continue the program or fund or whether to improve program or fund effectiveness and efficiency. The Board decided to hold meetings on a quarterly basis and review three to four programs per calendar year.

Performance Review Matrix

The Board is required to develop a performance review matrix that clearly establishes the economic performance indicators, measures, and metrics to guide the Board during its evaluation of each program. The Matrix shall determine the effectiveness and efficiency of the program while also being applicable to the variety programs and funds. The Performance

Review Matrix adopted by the Board and used for review of programs during the preceding two calendar years is contained in Exhibit A of this report.

Board Findings and Recommendations

The Board is required to make recommendations regarding the effectiveness and efficiency of the programs and funds it reviewed during the preceding two calendar years. All determinations made by the Board were made based on public information available to the Board. The Board reviewed the following programs during the preceding two calendar years and made the following determinations.

Economic Development and Diversification In-State Tuition for Employees

The Economic Development and Diversification In-State Tuition for Employees program is administered by the Office of the Governor (OOG) in conjunction with the Higher Education Coordinating Board. The program was established in 2009. The purpose of the program is to allow non-residents, whose families have been transferred to Texas, by a company, to pay the resident tuition rate as soon as they move to Texas, if they provide the college a letter of intent to establish Texas as their home. After the family has resided in Texas for twelve months, the student is eligible to apply for reclassification as a resident.

Upon its review of the Economic Development and Diversification In-State Tuition for Employees program, the Board found the following:

- The program is efficient and effective.
- Sufficient resources are available to effectively administer the program.
- Information about the program is clear and accessible.
- The program is a high value incentive for the state to offer.
- The program meets its purpose and satisfies the intent of the Legislature.
- Many evaluation categories were not applicable to this program, as it does not involve the use of state funds.

Following its review of the Economic Development and Diversification In-State Tuition for Employees program, the Board made the following recommendations:

- Staff should build upon the due diligence process for the initiation step of the application process. Staff should continue to ensure the company has not already decided to relocate to Texas prior to submitting the notification of interest.
- Staff should increase participation in the program by increasing awareness of the program among communities, companies, and consultants.

Both recommendations were implemented by staff immediately following the Board's review of the program.

Texas Economic Development Act – Tax Code Chapter 313

The Texas Economic Development Act, or Chapter 313, is administered by the Comptroller of Public Accounts (CPA) and was established in 2001. The primary purposes of the program are to attract large-scale business, encourage large-scale capital investment, and create new, high paying jobs in Texas. The program achieves its purpose by allowing school districts to attract new taxable property development by offering a value limitation on the appraised value of the property for the maintenance and operations portion of the school district's property tax. The local tax revenue the school district forgoes in this manner is substantially replaced through the school funding formula. The taxpayer receives the value limitation in exchange for agreeing to build or install property and create jobs. The minimum limitation value varies by school district.

Upon its review of the Texas Economic Development Act – Tax Code Chapter 313 program, the Board found the following:

- The program does not have an efficient application process.
- An adequate due diligence process for reviewing applications is in place.
- Adequate processes for reviewing use of state funds are in place, awarded entities regularly fulfill their obligations, and adequate procedures are in place to penalize awardees who do not fulfill obligations.
- The Board did not have the information necessary to determine if sufficient resources are available to effectively administer the program.
- Information about the program is clear and accessible.
- The program is a high value incentive for the state to offer, and the program meets its purpose and satisfies the intent of the Legislature.

Following its review of the Texas Economic Development Act – Tax Code Chapter 313 program, the Board made the following recommendations:

- The Legislature should reduce the amount of time statutorily permitted for school districts and the Comptroller's Office to review applications.
- The Legislature should require the application process and associated fees to be the same in all school districts across the state.
- The state should conduct an economic impact analysis of the program.

Texas Enterprise Fund

The Texas Enterprise Fund (TEF) is administered by the Office of the Governor (OOG) and was established in 2003. TEF is a "deal-closing" cash grant to companies considering a new project for which one Texas site is competing with other out-of-state sites. The project can be an expansion or relocation that will contribute a significant capital investment and create new, permanent, high wage jobs in Texas. A TEF award cannot be offered without unanimous approval by the Governor, Lieutenant Governor, and Speaker of the House of Representatives.

Upon its review of the Texas Enterprise Fund program, the Board found the following :

- The program has an efficient application process, and an adequate due diligence process for reviewing applications is in place.
- Adequate processes for reviewing use of state funds are in place, awarded entities regularly fulfill their obligations, and adequate procedures are in place to penalize awardees who do not fulfill obligations.
- Sufficient resources are available to effectively administer the program.
- Information about the program is clear and accessible.
- The program is a high value incentive for the state to offer, and the program meets its purpose and satisfies the intent of the Legislature.

Following its review of the Texas Enterprise Fund program, the Board made the following recommendations:

- The Legislature should reduce the amount of time statutorily permitted for the Lieutenant Governor and Speaker of the House of Representatives to make a decision on an application.
- Staff should consider working with local communities to partner on compliance efforts.

Exhibit A – Performance Review Matrix

Program Name							
Administered by:							
What is the purpose of the program?							
Who are eligible applicants?							
Item of Evaluation		Score					Comment
		1	2	3	4	5	
1	The program has an efficient application process.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A
2	An adequate due diligence process for reviewing applications is in place.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A
3	After approval of the application, an adequate process for reviewing the use of state funds is in place.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A
4	Awarded entities/Approved applicants regularly fulfill their obligations under the program.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A
5	Adequate procedures are in place to penalize awarded entities/approved applicants who do not fulfill obligations.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A
6	Sufficient resources are available to effectively administer the program.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A
7	Information regarding the program, eligible entities, and the application process is clear and accessible.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A
8	The program is a high value incentive for the state to offer.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A
9	The program meets its purpose and satisfies the intent of the Legislature.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	N/A

Score Total: XX of XX

NOTE: All determinations are made based on public information available to the Economic Incentives Oversight Board



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