



Revealing Tax Subsidies 2014

An analysis of the third wave of reports under Oregon's transparency requirements for economic development tax subsidies

March 2014



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Table of Contents

Executive Summary.....	1
Introduction	3
Findings In Detail.....	5
Recommendations	10
Appendix A: The Transparency Law (ORS 184.484)	11
Appendix B: Additional information about expenditures covered by the transparency law.....	12
Endnotes.....	13

Executive Summary

The ability of the public to see how their government uses the public purse is fundamental to democracy. Transparency in government spending checks corruption, bolsters public confidence in government and promotes greater effectiveness and fiscal responsibility. When public subsidies are given to private companies to advance goals related to economic growth, the public should see a timely and full accounting of the results of its investment.

In 2011, 2012 and 2013, through a bipartisan effort, the Oregon State Legislature adopted new measures (ORS 184.484) intended to shine a spotlight on nineteen economic development tax expenditure programs estimated to cost Oregon taxpayers over \$670 million in the 2013-15 biennium.

The purpose of the law is to allow taxpayers and policymakers alike to adequately evaluate the effectiveness and efficiency of these programs on Oregon's Transparency Website. If implemented properly, lawmakers and the public would be able to see the recipients of economic development tax expenditures, what recipients of these subsidies are expected to deliver in exchange for public dollars, and whether or not recipients fulfill their requirements.

This study examines the third annual update of the reports made available by the law on the Oregon Transparency Website in 2014.

It evaluates how well the law is being followed and the degree to which the new information helps the public determine the value of these programs.

Findings

1. Complete information was provided for five of the nineteen programs covered by the law, accounting for nearly \$417 million of the \$671 million in total subsidies.
2. Fourteen programs, accounting for the remaining \$254 million covered by the law, lack certain types of required disclosure or provide no information at all.
 - Six programs provide only partial reporting; two because legal prohibitions prevent public disclosure of certain data, and four for unexplained reasons.
 - At least three programs provide no information because the state lacks any tracking and accountability systems.
 - At least one program has no information available because it is currently inactive.
 - Four other programs withheld reports, for unexplained reasons.

Recommendations

To ensure that transparency is hardwired into the administration of these subsidy programs for the long-term, Governor Kitzhaber should issue a formal directive to all state agencies that administer corporate tax subsidies that includes the following:

1. As stewards of taxpayer dollars, state employees should prioritize transparency and accountability as a way to demonstrate that public dollars are used appropriately. Transparency should be the first order of business when administering a subsidy program, not an afterthought.
2. State agencies charged with administering economic development subsidies should provide the public with key information, including: the list of recipients of economic development tax expenditures, the value of subsidies received by each recipient, the economic output required of recipients in exchange for tax incentives, and proof that each recipient is fulfilling its requirement. Chief executives at these agencies should be required to regularly certify that they have provided full information.
3. While it should be a goal to make information as user-friendly as possible over the long run, state agencies should presently disclose all available information in whatever format it exists, such as spreadsheet, PDF document, and scanned image files. This includes:
 - All approved/certified applications for every economic development program that requires certification.
 - All annual reports for every economic development program that requires one.
 - All contracts between the state and a company regarding a subsidy, where appropriate.
4. Economic development programs that currently lack an annual reporting requirement should institute one immediately.
5. The details of any future economic development subsidy program should be disclosed, not just the ones listed in the current transparency law.

Introduction

The ability to see how government uses the public purse is fundamental to democracy. Transparency in government spending checks corruption, bolsters public confidence in government and promotes greater effectiveness and fiscal responsibility. When public subsidies are given to private companies to advance goals related to economic growth, the public should see a timely and full accounting of the results of its investment.

Oregon taxpayers are projected to spend an estimated \$671 million over the 2013-15 biennium on corporate tax expenditures with the stated purpose of creating jobs, promoting economic growth or providing other public benefits.¹ However, the public and lawmakers often remain unable to see which companies receive this money and whether the public benefits justify the cost these programs place on state and local budgets.

Oregon has taken important first step towards revealing the details of these tax subsidy programs. With unanimous support from the legislature, House Bill 2825 (now ORS 184.484) went into effect at the close of 2011, requiring disclosure of twelve corporate tax subsidy programs estimated to cost Oregon taxpayers \$525 million in the 2011-2013 biennium. After the 2012 short legislative session, the law was

extended to cover a total of eighteen corporate tax subsidy programs estimated to cost Oregon taxpayers over \$665 million in the 2013-2015 biennium. In 2013, the legislature adopted House Bill 2370, which further bolstered transparency efforts by requiring reporting for an additional economic development program and the disclosure of County Assessor reports for the Enterprise Zone program.

Oregon's Economic Development Transparency Law² requires that reports connected to corporate economic development tax subsidies be made available to the public through Oregon's Transparency Website.³

The law's purpose is to allow Oregon taxpayers to see how much they are spending on corporate economic development tax subsidies and what they get for their investment.

The law requests the following information from each tax subsidy program:

- Name and address of each taxpayer approved for a tax expenditure.
- Total amount of the credit against tax liability, reduction in taxable income or exemption from property taxation granted to each taxpayer.

- Specific outcomes or results required by specific recipients of the tax expenditure program and information about whether they met those requirements.
- An explanation of the agency’s certification decision for each taxpayer, if applicable.
- Any additional information submitted by the taxpayer and relied upon by the agency in its certification determination.
- Any other information that agency personnel deem valuable.

State agencies that administer these programs must submit a report to the Department of Administrative Services (DAS) on September 30th of each year. DAS must compile the information and post it to the Oregon Transparency Website no later than December 31st of the same year.

Legislators wisely required reporting for specific companies rather than merely aggregating totals for each program. Doing so allows the public and lawmakers to assess, for instance, whether certain industries or parts of the state are receiving a disproportionate amount of sub-

sidies, whether individual companies receive subsidies from multiple programs, and whether companies that receive subsidies invest more in Oregon over time. Equally important, the law required reporting on the intended outcomes and actual results for specific recipients. Doing so makes it possible to evaluate whether these programs are delivering “bang for their buck,” whether certain programs should be curtailed, expanded or better targeted.

The law also has some limitations. In response to concerns by some government agencies that the law would require them to perform extra work at a time when most agencies were cutting back their staff, the law only requires agencies to disclose information that they already have. For example, if an agency did not already require a specific deliverable in exchange for receiving a subsidy, the agency was not required to begin tracking and reporting them.

As agencies comply with the law, it becomes possible to assess whether the information they collect is sufficient to make choices that best serve the public. Our hope is that the analysis and suggestions outlined in this report help state officials improve these programs and their public transparency.

Findings In Detail

Complete information was provided for five of the nineteen programs covered by the law, accounting for nearly \$417 million of the \$671 million in total subsidies.

Table One (p.6) outlines the information reported by each tax subsidy program. The information required by the law is organized into six types: name of recipient, amount of tax subsidy to each recipient, outcomes required for the tax subsidy, actual outcomes delivered by the subsidy recipient, and whether the agency explains its criteria for making decisions about whether to grant subsidies.

The five programs with adequate reporting provided on the Oregon Transparency Website are some of the largest and most widely used programs in Oregon: The Strategic Investment Program, the Film Production Labor Rebate:

Greenlight, Enterprise Zone Business, Production or Collection of Biomass and Alternative Energy Devices (residential). The agencies that administer these programs should be commended for providing all of the information needed for the public to be able to evaluate their effectiveness. *(See Appendix B to see the cost and other information about these programs).*

By providing all of the information requested by the transparency law, the reports for these five programs allow the public to see what companies are participating in the program, how much they are receiving, the intended public benefit of the specific project, and whether the participating companies are providing that public benefit. Although this information isn't comparable apples to apples from program to program, since there are different expected outcomes for each, it equips the public with the ability to track their return on investment and evaluate whether the subsidy itself is worth the cost.

Table One: Current disclosure levels of Oregon’s economic development programs: third reporting wave⁴

Subsidy Program	Reporting Agency	Report Submitted	Name & Address of Recipient	\$\$ to each Recipient	Required Outcomes	Actual Outcomes	Decision-Making Criteria
Strategic Investment Program	OBDD	Yes	Yes	Yes***	Yes***	Yes***	Yes***
Production or Collection of Biomass	ODOE	Yes	Yes	Yes	Yes	Yes	Yes
Enterprise Zone Business (prop. tax)	OBDD	Yes	Yes	Yes	Yes	Yes	Yes
Film Production Labor Rebate (Greenlight)	OFVO	Yes	Yes	Yes	Yes	Yes	Yes
Alternative Energy Devices (residential)	ODOE	Yes	Yes	Yes	N/A	Yes	Yes
Oregon Investment Advantage	OBDD	Yes	Yes	No*	Yes	Yes	Yes
Renewable Resource Equipment Mfg. Facilities	OBDD	Yes	Yes	Yes	Yes	No*	Yes
Film Production Development Contribution (OPIF)	OFVO	Yes	Partial	Yes	No	No	Partial
Business Energy Facilities (now expired)	ODOE	Yes	Yes	Yes	No	Partial**	No
Renewable Energy Projects	ODOE	Yes	Yes	Yes	No	No	No
Energy Conservation Projects	ODOE	Yes	Yes	Yes	No	No	No
Transportation Projects	ODOE	Reported “inactive”	No	No	No	No	No
Rural Renewable Energy Dev. Zone	OBDD	No	No	No	No	No	No
Food Proc. Equip.	ODA	No	No	No	No	No	No
Egg Proc. Equip.	ODA	No	No	No	No	No	No
Oregon Low Income Community Investments (New Market Tax Credit)	OBDD	No	No	No	No	No	No
Long Term Rural Enterprise Zone (income tax)	ODR	No	No	No	No	No	No
Reservation Enterprise Zone	ODR	No	No	No	No	No	No
Electronic Commerce Enterprise Zone (income tax)	ODR	No	No	No	No	No	No

* Due to confidentiality

** Not provided for all projects

***The Strategic Investment Program was given full credit because taxpayers can see a wealth of information about current and past projects including copies of applications and annual reports by clicking on a link provided on the Oregon Transparency Website. To see that information go to: <http://www.oregon4biz.com/Contact-us/Public-Record-Request/>

Note: OBDD is the acronym for Oregon Business Development Department (also known as Business Oregon); OFVO is the Oregon Film and Video Office; ODOE is the Oregon Department of Energy; and ODA is the Oregon Department of Agriculture; ODR is the Oregon Department of Revenue.

Table Two: Enterprise Zone County Assessor Report Fiscal Year 2013: Multnomah County

Name of Qualified Firm (List separate exemptions by year, leaving job figures to right blank if based on same authorization)	Total Years of Exemption (2, 3, 4 or 5)	First Year Claim Filed (2012 or earlier)*	Assessed Value (~AV) of Exempt Property (\$)	Tax Code Area	Taxes to have been Imposed (\$)	Preexisting Zone Employment (annual average in authorization application)	Reported for Previous [2012] Calendar Year*	
							Zone Employment (annual average)	Compensation if applicable (average annual-\$)
American Tokyo Kasei	5	2007	\$18,030	201	\$282	35	41	
United Parcel Service (UPS)	5	2011	\$49,567,058	731	\$628,391	641	714	
Widmer Brothers Brewing dba Craft Brewers	5	2009	\$17,999,880	710	\$287,183	86	178	
King Cycle Group (Phase II)	5	2008	\$2,059,126		\$35,429	80	97	
Kraft Foods Global Inc	5	2008	\$19,496,580	201	\$311,062	335	330	
Portland Vital Signs	5	2010	\$525,840	1	\$8,390	17	27	
BORS, Inc (KNA Rivergate Calbag Metals LLC)	5	2010	\$6,354,158	201	\$109,336	30	34	
Service Steel Phase I	5	2007	\$1,876,149	731	\$29,933	67	249	
Sollack - Phase I	5	2009	\$34,354,078	201	\$371,093	0	71	
United Stationers Supply Company	5	2011	\$3,153,706	201	\$50,046	45	50	
JS FAB (FKA US Barge LLC)	5	2008	\$9,498,020	731	\$151,538	10	80	
Sollack - Phase II	5	2012	\$15,314,278	201	\$244,335	90	71	
YoCream International - Phase I	5	2007	\$1,987,260	602	\$18,584	50	98	
Yo Cream International - Phase II	5	2010	\$3,650,160	602	\$9,086	70	98	
Opus Creative	5	2007	\$12,926	1	\$206	41	39	
SIC	5	2008	\$10,014,900	731	\$136,763	20	33	
ZONE TOTAL			\$175,882,111		\$2,391,657	1,617	2,210	

An example of a report that provides the public with adequate information is one of the county assessor reports provided for the Enterprise Zone Business program.

Looking at this report, the public can see which firms are participating in the Enterprise Zone in Multnomah County, the size of their investment, the size of their subsidy and the employment change over time. The public can compare these numbers with the legal requirements of the program to determine if companies are complying with the law and can use these figures to determine how much bang for the buck taxpayers are receiving from this subsidy program.

With full reporting like this, the public is equipped with enough information to be able to evaluate the subsidies and participate in conversations and decision-making about how public dollars are spent. A well-informed conversation can take place over whether this subsidy program would be curtailed or enlarged. Access to the information also opens the door to citizen watchdogging to help ensure that our tax dollars are being spent appropriately.

Fourteen programs, accounting for the other \$254 million covered by the law, lack certain types of required disclosure or provide no information at all.

Six programs provide only partial reporting; two because legal prohibitions prevent public disclosure of certain data, and four for unexplained reasons.

Two programs—The Oregon Investment Advantage and the Renewable Resource Equipment Manufacturing Facilities (also known as the Manufacturing BETC)— provide all but one piece of critical information because the way the program is set up inhibits officials from disclosing all requested information.

- OSPIRG Foundation researchers were told by an official with Business Oregon that since the Oregon Investment Advantage is an abatement of income tax owed, the amount of tax abated can only be calculated by looking at the private entity's tax

return, which Oregon Law currently prohibits the release of.

- The Manufacturing BETC report contains all information except for the actual number of jobs created for the individual projects. An official with Business Oregon indicated to OSPIRG Foundation researchers that they were prohibited from providing the jobs number because Business Oregon receives the numbers from the Oregon Employment Department—not the firms themselves—in order to verify that the companies are meeting their performance agreement. The employment department data on private firms is confidential by law.

Three energy programs—Business Energy Facilities, Energy Conservation Projects, and Renewable Energy Projects—provide information about the companies that are participating in the program and the amount of their subsidy. Unfortunately, they fail to provide information about the specific public benefits that recipients are expected to generate will be and whether the companies deliver on those expectations. Additionally, none of these programs provide information about the qualifications for eligibility or decision making criteria for selecting recipients for the projects listed.

The report for the Film Production Development Contribution (OPIF) similarly provides only half of the story for taxpayers. The current report shows the individual taxpayers in Oregon who bought the film tax credit by auction to help fund the program. The report does not,

however, show what the public receives in return—the film projects that the money actually funds. This information is critical for taxpayers to be able to see their return on investment.

At least three programs have no information available because the state lacks any tracking and accountability systems for these programs.

There are at least three programs that appear to have no information available because they lack a tracking system—the Long Term Rural Enterprise Zone, the Reservation Enterprise Zone and the Electronic Commerce Enterprise Zone. All three of these programs are income tax abatements.

According to a document provided to OSPIRG Foundation researchers from a representative from the Department of Administrative Services last year, the Department of Revenue did not provide information on Electronic Commerce Enterprise Zone because the Department of Revenue does not track information about this credit other than through the state tax returns, which is protected from disclosure under state law. They have not yet developed a system to provide this information through other means or to make clear to those who claim these abatements that the subsidy amounts will be public record. Presumably that is also the case for this year.

In addition, OSPIRG Foundation researchers attempted to obtain information about the Long Term Rural Enterprise Zone and the

Reservation Enterprise Zone from the Department of Revenue through a public records request and were told that the information was confidential because it is tracked on a participating firm's income tax returns.

The only way for this information to be eligible for disclosure is if the Department of Revenue begins tracking information on this subsidy on a form outside of the tax return, which the law does not currently require. Under the status quo, the public will never know which companies claim the subsidy, the size of the subsidy to each recipient, or any other information needed to evaluate the program.

Until this and other income tax credits have a reporting requirement outside of their tax return, the public will not have access to any pertinent information on these tax expenditures.

At least one program has no information available because it is currently inactive.

Transportation Projects, which is part of the Energy Incentive Program, is inactive, according to the information provided on the Oregon Transparency Website.

Four other programs withheld reports, for unknown reasons.

The Rural Renewable Energy Development Zone, Egg Processing Equipment, Food Processing Equipment and Low Income Community Investments (Oregon New Market Tax Credit) did not provide reports. It is not known if these reports were withheld because there are no tracking systems in place, because they are inactive or because state agencies simply didn't provide existing data.

Recommendations

Oregon's economic development expenditure transparency law passed unanimously through the Oregon Legislative Assembly with a clear mandate to Oregon's Executive branch to give the public access to the information needed to adequately evaluate the effectiveness and efficiency of these programs.

While there has been much progress over the past couple of years in the amount of information made available to the public, there is no assurance that this level of transparency will continue, or that more progress will be made.

In order to ensure that transparency is hard-wired into the administration of these subsidy programs for the long-term, Governor Kitzhaber should issue a formal, written directive to all state agencies that administer corporate tax subsidies that includes the following:

1. As stewards of taxpayer dollars, state employees should prioritize transparency and accountability as a way to demonstrate that public dollars are used appropriately. Transparency should be the first order of business when administering a subsidy program, not an afterthought.
2. State agencies charged with administering economic development subsidies should provide the public with key information, including: the list of recipients of economic development tax expenditures, the value of subsidies received by each recipient, the economic output required of recipients in exchange for tax incentives, and proof that each recipient is fulfilling its requirement.
3. While it should be a goal to make information as user-friendly as possible over the long run, state agencies should presently disclose all available information in whatever format it exists, such as spreadsheet, PDF document, and scanned image files. This includes:
 - All approved/certified applications for every economic development program that requires certification.
 - All annual reports for every economic development program that requires one.
 - All contracts between the state and a company regarding a subsidy, where appropriate.
4. Economic development programs that currently lack an annual reporting requirement should institute one immediately.
5. The details of all future economic development subsidy programs should be disclosed, not just the ones listed in the current transparency law.

Appendix A:

The Transparency Law (ORS 184.484)

184.484 Reports of tax expenditures connected to economic development. (1) For each statute authorizing a tax expenditure that has a purpose connected to economic development and is listed in subsection (2) of this section, the state agency charged with certifying or otherwise administering the tax expenditure shall submit a report to the Oregon Department of Administrative Services. If no agency is authorized by statute, or if the statute does not provide for certification or administration of the tax expenditure, the Department of Revenue shall submit the report.

(2) This section applies to

(a) ORS 285C.175, 285C.309, 285C.362, 307.123, 307.455, 307.462, 315.141, 315.331, 315.336, 315.341, 315.507, 315.514, 315.533, 316.698, 316.778, 317.124, 317.391 and 317.394

(b) Grants awarded under ORS 469B.256 in any tax year in which certified renewable energy contributions are received as provided in ORS 315.326.

(c) ORS 315.354 except as applicable in ORS 469B.145 (2)(a)(L) or (N)

(3) The following information, if it is already available in an existing database maintained by the agency, must be included in the report required under this section:

(a) The name of each taxpayer approved for the allowance of a tax expenditure or a grant award under ORS 469B.256.

(b) The address of each taxpayer or applicant.

(c) The total amount of credit against tax liability, reduction in taxable income or exemption from property taxation granted to each taxpayer or applicant.

(d) Specific outcomes or results required by the tax expenditure program and information about whether the taxpayer or applicant meets those requirements. This information shall be based on data already collected and analyzed by the agency in the course of administering the tax expenditure. Statistics must be accompanied by a description of the methodology employed in their generation.

(e) An explanation of the agency's certification decision for each taxpayer, if applicable.

(f) Any additional information submitted by the taxpayer and relied upon by the agency in its certification determination.

(g) Any other information that agency personnel deem valuable as providing context for the information described in this subsection.

(4) The information reported under subsection (3) of this section may not include proprietary information or information that is exempt from disclosure under ORS 192.410 to 192.505 or 314.835.

(5) No later than September 30 of each year, agencies described in subsection (1) of this section shall submit to the Oregon Department of Administrative Services the information required under subsection (3) of this section as applicable to applications for allowance of tax expenditures approved by the agency during the agency fiscal year ending during the current calendar year. The information shall then be posted on the Oregon transparency website required under ORS 184.483 no later than December 31 of the same year.

(6) In addition to the information described in subsection (3) of this section, the Oregon Department of Administrative Services shall post on the Oregon transparency website copies of all reports that the department, the Department of Revenue or the Oregon Business Development Department receives from counties and other local governments relating to properties in enterprise zones that have received tax exemptions under ORS 285C.309, 285C.175, 285C.409, or that are eligible for tax exemptions under ORS 285C.309, 315.507 or 317.124 by reason of being in an enterprise zone. The reports shall be submitted to the Oregon Department of Administrative Services in a manner and format prescribed by the department.

(7) The information described in this section that is available on the Oregon transparency website must be accessible in the format and manner required by the Oregon Department of Administrative Services.

(8) The information described in this section shall be furnished to the Oregon transparency website by posting reports and providing links to existing information systems applications in accordance with standards established by the Oregon Department of Administrative Services.

Appendix B:

Additional information about expenditures covered by the transparency law

TER	Expenditure	Evaluating Agency	ORS	Certifying Agency	Reporting Agency	Projected 2013-15 Revenue Impact
1.31	Oregon Investment Advantage (OIA)	OBDD	316.778, 317.391	OBDD	OBDD	\$2.90
1.317	Film Production Labor Rebate (Greenlight)	OFVO	316.698, 317.394	OFVO	OBDD	\$0.70
1.412	Film Production Development Contribution (OPIF)	OFVO	315.514	OFVO	OBDD	\$12.10
1.413	Oregon Low Income Community Investments (New Market Tax Credit)	OBDD	315.533 (2)	OBDD	OBDD	\$5.30
1.416	Long Term Rural Enterprise Zone (income tax)	OBDD	317.124	Governor's Office	ODR	Not Available
1.417	Reservation Enterprise Zone	OBDD	285C.309	OBDD	ODR	Less than \$0.1
1.418	Electronic Commerce Enterprise Zone (Income Tax)	OBDD	315.507	OBDD	ODR	\$0.50
1.444	Business Energy Facilities (now expired)	ODOE	315.507	ODE and OBDD	ODOE	\$142.70
1.445	Renewable Energy Projects	ODOE	315.326	ODR and ODE	ODR	\$2.70
1.446	Energy Conservation Projects	ODOE	315.331	ODOE	ODOE	\$14.30
1.447	Transportation Projects	ODOE	315.336	ODOE	ODOE	\$9.30
1.452	Production or Collection of Biomass	ODOE	315.141	ODOE	ODOE	\$24.60
1.442	Alternative Energy Devices (residential)	ODOE	315.116	ODOE	ODOE	\$24.30
1.419	Renewable Resource Equipment Manufacturing Facilities	OBDD	315.341	OBDD	OBDD	\$61
2.01	Enterprise Zone Business (Property Tax)	OBDD	285C.175	OBDD	OBDD	\$45
2.012	Rural Renewable Energy Development Zone	OBDD	285C.362	OBDD	OBDD	\$2.20
2.029	Food Processing Equipment	ODA	307.455	ODA	ODA	\$1.60
2.108	Egg Processing Equipment	ODA	307.462	ODA	ODA	Less than \$0.1
2.095	Strategic Investment Program	OBDD	307.123	OBDC, OBDD and ODR	OBDD	\$322.40

Endnotes

1. Oregon Tax Expenditure Report 2013-15
2. Oregon Revised Statute 184.484
3. The Oregon Transparency Website can be found at www.oregon.gov/transparency
4. Reports can be found at <http://www.oregon.gov/transparency/Pages/TaxExpenditures.aspx>