

AUDIT OF ECONOMIC DEVELOPMENT INCENTIVE FUND PROGRAM

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EXECUTIVE SUMMARY

As part of the Annual Audit Plan, the Clerk of Circuit Court and County Comptroller's *Internal Audit Department and Office of the Inspector General* conducted an independent audit of the Economic Development Incentive Fund Program. The purpose of the audit was to assess compliance with applicable Florida Statutes, county ordinances, agreements, and policies and procedures related to the incentive fund program.

The audit found that the economic development incentive fund program:

- Reimbursed an entity although they failed to perform per the agreement,
- Lacked sufficient supporting documentation for payment requests,
- Lacks approved policies and procedures,
- Is not compliant with Florida Statute 125.045(4),
- Is not compliant with Accounting Policies and Procedures, section 9.10
- Lacks monitoring and retention processes related to completed applications.

A lack of approved policies and procedures results in a higher risk that the incentive fund program will expose the County to compliance risks and inappropriate reimbursements.



BACKGROUND AND OBJECTIVES

The Clerk of the Circuit Court and County Comptroller's *Internal Audit Department and Office of the Inspector General* has completed an audit of the Economic Development Incentive Fund program. The audit was planned and conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing (Standards)*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The purpose of the audit was to review compliance with applicable Florida Statutes, county ordinances, agreements, and policies and procedures related to the incentive fund program.

Background

The Economic Development Incentive Fund program was previously managed by the Office of Economic Development (OED). The incentive fund agreements reviewed in this audit were entered into under the management of the OED. As of October 1, 2018, the Office of Government Relations has taken over management of the program and as of the date of this audit report, has not entered into any incentive fund agreements while under their management.

The Sarasota Board of County Commissioners (BCC) established County Resolution No. 2010-199, known as the Economic Development Incentive Policy Guidelines, in order to assist in its determination as to whether a business seeking an economic development incentive grant will further the economic prosperity and sustainability goals of the County. Since being established in fiscal year 2010, this resolution has been superseded four times and the current resolution is County Resolution No. 2017-145.

This resolution is in accordance with Florida Statute 125.045, and it authorizes the BCC to expend public funds to attract and retain business enterprises, included making grants to public and private enterprises for the expansion of business-focused entities. These companies may already exist in the community or they may be attracted from outside of the community by available economic development opportunities.

On April 14, 2009, the BCC, in recognition of the need to focus County efforts on economic development, created the Economic Development Fund with \$2 Million of escheated lots revenue. This fund is to be devoted to providing economic development incentives to entities that are considering relocating to Sarasota County, expanding their business, or planning to assist other government agencies and non-profits with their economic development activities. The BCC has approved a total of \$16,676,000 to be committed to economic development projects since the start of the fund. As of September 19, 2018, the fund has an available balance of \$6,829,291, which includes interest earnings.

Since the inception of the economic development incentive program the BCC has considered, awarded and subsequently entered into incentive agreements with 36 businesses, eight non-profit organizations and two local municipalities. With each of these awards, the entities have committed to providing an economic stimulus to the community as part of their overall plans for growth. In particular, with respect to the private businesses, each one represented that it would create a specific number of local jobs and some represented that they would also invest a substantial amount of capital into the County.

In order for an entity to obtain grant funding from the County, they are required to create new full-time permanent jobs over the course of a year (the job creation period). At the end of the job creation period, the company is then required to submit a Job Creation/Retention Affidavit (the job affidavit) and provide corresponding state *Employer's Quarterly Reports* (RT-6, formerly UCT-6) to support the job affidavit. Information to be included in the job affidavit includes the employee names, employee identification numbers, county residence, job classification or title, job creation date, salary, and the type of position created (new, relocated, or replacement). The County reviews the information submitted, determines the net jobs created during the job creation period, and ensures that the entity met the requirements in order to receive grant funding. If the entity meets the requirements, the Office of Government Relations prepares a payment request, provides it to the Office of Financial Management (OFM) for review, and once approved, the Finance department issues a check to the entity.

Objectives, Scope and Methodology

The objectives of this audit were to determine if the Governmental Relations Department's internal controls related to application, granting, and subsequent tracking of incentive funds are operating effectively and if they are in compliance with applicable laws, rules, regulations, policies and procedures.

To meet the objectives of the audit, the procedures performed included, but were not limited to, the following:

- Obtained an understanding of relevant Florida Statutes, County Resolution No. 2017-145, and each incentive agreement that was reviewed.
- Conducted a walkthrough of the incentive fund program.
- Performed inquiries of county personnel.
- Reviewed and tested documentation related to the application process, fund disbursement, and reporting requirements.
- Verified compliance with relevant Florida Statutes and County Resolution No. 2017-145, and each specific incentive fund agreement entered into by the County.
- Identified opportunities for improvement.



OPPORTUNITIES FOR IMPROVEMENT AND MANAGEMENT RESPONSES

The audit disclosed certain policies, procedures, and/or practices that could be improved. The audit was neither designed nor intended to be a detailed study of every relevant system, procedure, or transaction. As a result of the audit, observations and recommendations identified below are related to *Standards*:

- (Standard 2130.A1) Adequacy and effectiveness of controls, particularly compliance with laws and policies and procedures and the reliability and integrity of financial and operational information.

The **Opportunities for Improvement** presented in this report may not be all-inclusive of areas where improvement may be needed. There were seven *Opportunities for Improvement* identified as a result of the audit:

1. **Grant Allocation Wage**
2. **Supporting Documentation for Payment Requests**
3. **Policies and Procedures**
4. **Compliance with Florida Statute**
5. **Residency Requirements**
6. **Write-off Process**
7. **Application Process**

1. Grant Allocation Wage

Observation

Per the Financial Incentive Grant Agreements reviewed, each agreement indicates that in order to receive the maximum Economic Development Grant the Company must retain their current jobs, create the specified new full time jobs, compensate employees hired at a specified starting wage, and in any single year of the Job Creation Period, the average starting salary wage for all full time employees hired in that year must, at a minimum, meet the Grant Allocation Wage. If the average of the annual starting wages for the new full time jobs created in any single year of the Job Creation Period does not meet or exceed the Grant Allocation Wage, the new full time jobs created in that year will not qualify for a Grant allocation.

At the end of the job creation period, the company is then required to submit a job affidavit and provide corresponding state *Employer's Quarterly Reports* (RT-6, formerly UCT-6) to support the job affidavit. The County reviews the information submitted, determines the net jobs created during the job creation period, and ensures that the entity met the requirements in order to receive grant funding.

The grant allocation is based on the number of net jobs created during the Job Creation Period multiplied by the established rate per the agreement. The grant allocation for each Job Creation Period is to be paid in equal payments over a future grant payout period as established by the agreement.

The auditor identified and reviewed five Financial Incentive Grant Agreements that were entered into after January 1, 2014 and two agreements that exceeded \$100,000 for the period of January 1, 2012 through December 31, 2013. There were a total of 19 payments made against the agreements, totaling \$878,226.

During review of the payment requests for the seven agreements, the auditor identified three payments related to the first Job Creation Period of a specific agreement where the company did not appear to be eligible for incentive grant funding.

In order for a new job to qualify, each new full time starting wage must meet or exceed \$32,008. In the first Job Creation Period (September 23, 2014 through September 23, 2015) the entity created 12 new jobs and terminated three jobs (one job was created and terminated on the same day) resulting in a total of nine net jobs that met or exceeded the starting wage minimum of \$32,008.

Excluding the job created and terminated on the same day, the 11 new jobs averaged a starting wage of \$41,266.73, which failed to meet the required minimum Grant Allocation Wage of \$43,304. However, the County determined the company was eligible for incentive funding by removing the three lowest jobs from the Grant Allocation Wage calculation. By doing so, the Grant Allocation Wage increased to exceed the minimum of \$43,304.

The County determined that six new full time positions were eligible for incentive funds and the agreement allotted \$3,000 for each full-time job created, totaling \$18,000. The agreement indicated that the total incentive funds were to be paid in four equal parts, which totaled \$4,500 per year. The County has paid three of the four equal payments related to the first Job Creation Period, for a grand total of \$13,500.

Recommendation

The County should review the grant agreement, all submitted job affidavits, and supporting documentation to determine if the County is entitled to a reimbursement related to this grant agreement.

To ensure compliance with future incentive agreement requirements, all full time employees hired in a single year of the Job Creation Period, should be included and the average salary should be calculated. If the average salary does not meet or exceed the Grant Allocation Wage, then the Company should not be provided incentive funding due to lack of performance.

Management Response

Governmental Relations staff will review the specified grant agreement and documentation with the Office of the County Attorney and County Administration. For future grant agreements, staff will include all full-time employees hired in a single year of the Job Creation Period in the calculation of the average salary to determine whether the Grant Allocation Wage has been met for that year. This guideline has been specifically identified within the Governmental Relations Office Procedures and Guidelines for EDIF Application and Performance Review.

2. Supporting Documentation for Payment Requests

Observation

Per the Financial Incentive Grant Agreements reviewed, Section 6.1 states that "an authorized, knowledgeable representative of the Company shall deliver to the County a completed UCT-6 statement, a properly executed Job Creation/Retention Affidavit showing the number of New Full Time Jobs created during the Job Creation Period and any New Full Time Jobs that have been eliminated, and the annual starting salary of each eliminated position."

The auditor identified and reviewed five Financial Incentive Grant Agreements that were entered into after January 1, 2014 and two agreements that exceeded \$100,000 for the period of January 1, 2012 through December 31, 2013. There were a total of 19 payments made against the agreements, totaling \$878,226.

The auditor identified five payment requests that failed to include Florida Employer's Quarterly Reports (RT-6 formerly UCT-6), which is required to be submitted to support the job affidavit. The companies instead provided the Federal quarterly payroll reports (Form 941). Although this includes important payroll information, the employees listed in a Form 941 could be located anywhere in the United States, whereas payroll information listed in RT-6 forms, will include payroll data only for employees working in Florida.

Additionally, one of the seven Financial Incentive Grant Agreements lacked sufficient supporting documentation for the required semi-annual job affidavits. The auditor noted that the initial supporting documents included semi-annual job affidavits; however, as time went on, the job affidavits provided were not covering six month periods, and eventually the entity only provided annual job affidavits.

Recommendation

To improve the process for verifying the jobs listed on the submitted job affidavit were actually created, the County should ensure documentation provided is complete and supports the job affidavit prior to making a payment request.

Management Response

Governmental Relations staff will ensure a completed job creation affidavit and Florida Employer's Quarterly Reports (RT-6) is received from a Company prior to initiating a grant payment request. This has been identified as a specific guideline within new standard operating procedures for monitoring EDIF grant agreements. No payment requests will be submitted without complete and sufficient supporting documentation as required by the grant agreement.

3. Policies and Procedures

Observation

County Resolution No. 2017-145, known as the Economic Development Policy Guidelines, was created as a tool to assist in the determination as to whether a business seeking grant funding will further the economic prosperity and sustainability goals of the County. This resolution outlines the amount of incentive funds to be granted for each new job created and it defines criteria that may be applied when determining whether to provide incentive grant funding to an applicant business. However, the department lacks approved policies and procedures outlining the roles of the Government Relations staff and Sarasota Economic Development Corporation (EDC) staff, criteria for review and approval of applicants, and subsequent monitoring processes of approved grant awards.

Recommendation

To ensure applicants meet a specified set of criteria set forth by the BCC, the Governmental Relations Department should develop policies and procedures that will, at a minimum, address the roles and responsibilities of the Governmental Relations staff and EDC staff, criteria for review and approval of applicants, and subsequent monitoring of grant awards. These policies and procedures should be in alignment with County Resolution No. 2017-145, approved by the Director of Government Relations, and updated accordingly when superseding resolutions are approved by the BCC.

Management Response

Staff has developed new Governmental Relations Office Procedures and Guidelines for EDIF Award Application and Performance Review. This standard operating procedure is in alignment with County Resolution No. 2017-145, and delineates steps for review, approval and subsequent monitoring of grant applications and awards. It will be reviewed and updated as necessary on an annual basis, or sooner when superseding resolutions are approved by the BCC.

4. Compliance with Florida Statute

Observation

Florida Statute 125.045(4) states that "a contract between the governing body of a county or other entity engaged in economic development activities on behalf of the county and an economic development agency must require the agency or entity receiving county funds to submit a report to the governing body of the county detailing how county funds were spent and detailing the results of the economic development agency's or entity's efforts on behalf of the county. By January 15, 2011, and annually thereafter, the county must file a copy of the report with the Office of Economic and Demographic Research (EDR) and post a copy of the report on the county's website".

The County filed, for the first time, the EDC's annual report for fiscal year 2016-2017 in January 2018. The County has not filed previous fiscal year annual reports with the EDR. The first required filing due date was January 15, 2011, so the County has not filed the six prior years EDC annual reports. Additionally, the County has not posted a copy of the EDC annual reports to the County website.

Recommendation

To ensure compliance with Florida Statute, develop and implement a monitoring process to verify that all reporting requirements related to the EDC Annual Report are completed by the specified time period.

Management Response

Staff has developed new Governmental Relations Office Procedures and Guidelines for Economic Development Reporting to the State. This standard operating procedure is in alignment with Florida Statute 125.045(4) and delineates reporting requirements related to the EDC Annual Report. It will be reviewed and updated as necessary on an annual basis, or sooner when superseding statutes are adopted by the State of Florida. Governmental Relations staff will continue to file the EDC Annual Report with the EDR as well as make the report available on the department web page.

5. Residency Requirements

Observation

Per the Financial Incentive Grant Agreements reviewed, the agreement states that the "Company shall undertake best efforts to fill not less than fifty (50%) of all New Full Time Jobs with employees who are residents of Sarasota County so long as Company reasonably determines that there are properly qualified applicants residing in Sarasota County".

The auditor identified and reviewed five Financial Incentive Grant Agreements that were entered into after January 1, 2014 and two agreements that exceeded \$100,000 for the period of January 1, 2012 through December 31, 2013. There were a total of 19 payments made against the agreements, totaling \$878,226.

The auditor identified eight instances of non-compliance related to the residency requirements. Two job affidavits did not include any county residency information. One job affidavit included incomplete county residency information. The other five job affidavits indicated that the percentage of new full-time employees residing in Sarasota County was 48, 42, 33, 24, and 21 percent respectively. The supporting documentation did not indicate why the entities were unable to meet the 50 percent threshold.

Recommendation

In order to obtain assurance that companies are making best efforts to fill not less than 50% of all new full time jobs with employees who reside in Sarasota County, the County should ensure that each job affidavit includes resident information. If the percentage of new full time jobs created falls below this amount, the company should be requested to provide additional information as to why they were unable to fill the positions with employees residing within Sarasota County.

Management Response

Prior to initiating a grant payment request, Governmental Relations will ensure that the submitted job creation affidavit is complete including resident information. Staff will not initiate a grant payment request with incomplete resident information. Moving forward, if less than 50% of all new full time jobs have been filled by employees who are residents of Sarasota County, staff will request that the Company provide additional information for explanation. These guidelines have been incorporated in the Governmental Relations Office Procedures and Guidelines for EDIF Award Application and Performance Review.

6. Write-off Process

Observation

The Accounting Policies and Procedures, section 9.10 states that “it is the responsibility of any business center that generates accounts receivable to enforce collections of the receivables and to submit uncollectible accounts to the Board of County Commissioners to be written-off.”

When an entity has entered into a Financial Incentive Grant Agreement with the County and has been awarded grant funds for job creation or relocating their business, the entity is still required to continue performing for benefits previously received. If an entity fails to meet those requirements, then the “clawback” provisions can kick in which would then require the entity to return the entire benefit or a portion of that benefit to the County.

Since the inception of the Economic Development Incentive Program, there have been a total of 16 entities that have been required to return funds to the County. Of those, four entities continue to owe the County money, which totaled \$508,625 as of September 28, 2018.

During testing, the auditor determined that:

- Two of the entities owe the County \$50,000 each,
- One entity has been sued by the County and is required to pay back \$350,000, and
- One entity has a balance of \$58,625 and has made 17 payments to date.

The auditor determined that the County has not complied with section 9.10 of the Accounting Policies and Procedures. Additionally, the department has failed to notify the Finance department that these repayments are to be recorded as receivables for the County.

Recommendation

To ensure compliance with the Accounting Policies and Procedures, the County should bring all possible write-offs of receivables to the BCC for review and approval. Additionally, the County should implement a procedure to notify the Finance department any time an entity is required to return money to the County.

Management Response

Beginning with Fiscal Year 2019, Governmental Relations Staff will bring all possible write-offs of receivables to the BCC for review and approval in accordance with the Clerk of Circuit Court Accounting Policy 9.10.

7. Application Process

Observation

Companies interested in requesting financial assistance from Sarasota County in order to complete their expansion or relocation plans are encouraged to contact the EDC. Staff at the EDC works with each interested company in order to determine if they meet the requirements of the Economic Development Incentive Program and to assist them with the application process. Completed applications are sent to Government Relations staff to perform a high level review to ensure the application is complete and contains accurate information. After review, a packet is created that contains a memo to the BCC and calculations showing the economic benefits of the company's expansion or relocation plans. The packet is then presented to the BCC for approval and if approved, will lead to an agreement between the county and the applicant.

During the review of seven for-profit applications approved by the BCC, it was noted that one application lacked a signature and was not notarized; the Government Relations staff was unable to locate an original signed copy of the application. Additionally, the Government Relations staff was unable to locate one of the seven applications selected for testing.

Recommendation

The Office of Government Relations should establish policies and procedures in which clearly outline the application review requirements and ensure that all applications and corresponding documents are retained.

Management Response

The Governmental Relations Departmental Records Management Coordinator (DRMC) will ensure that EDIF award applications, contracts and related documents are managed in accordance with the Sarasota County Government Administrative Directive No. 9.01, Retention and Disposition of Public Records.

