INCENTIVE EVALUATION COMMISSION
REGULAR MEETING MINUTES
MAR. 21, 2024; 10 A.M.
OKLAHOMA STATE CAPITOL
SENATE CONFERENCE ROOM 4S.9
OKLAHOMA CITY, OK 73105

MEMBERS PRESENT:
Lyle Roggow, Chair designee of Select Oklahoma and Economic Development Partnership, Inc.
Carlos Johnson, CPA, appointed by the Oklahoma Accountancy Board
Earl Sears, appointed by the Speaker of the House of Representatives
Dr. Saleh Tabrizy, Economist
John Suter, Secretary of Operations and Government Efficiency, the State COO, and Director of the Office of Management and Enterprise Services

MEMBER ABSENT:
Mandy Fuller, Auditor/CPA appointed by the Governor
Mark Wood, Chair of the Oklahoma Tax Commission, Ex-Officio; Non-Voting
Jon Chiappe, Secretary of Commerce designee, Ex-Officio; Non-Voting

STAFF/GUESTS:

Beverly Hicks, OMES	Seth Rott, MMR
Christy Keen, OTC, Counsel	James Milner, MMR
Randall Bauer, PFM	Keyton Dozier, OMES

♦*Office of Management and Enterprise Services (OMES)* ♦*Public Financial Management Group Consulting LLC (PFM)*
♦*OK Tax Commission (OTC)* ♦McSpadden| Milner |Rott (MMR)

1. **Announcement of filing of meeting notice and posting of the agenda in accordance with the Open Meetings Act.**

   Chairman Roggow confirmed that the meeting notice was filed in accordance with the state law.

2. **Call to order and establish a quorum.**

   Chairman Roggow called this regular meeting to order at 10:05 a.m. A roll call was taken, and a quorum was established. Mr. Roggow confirmed that a meeting notice had been filed with the Secretary of State, and the agenda was posted in accordance with the Open Meeting Act.

   Chairwoman Roggow introduced and welcomed Dr. Soleh Tabrizy, as the new member of the Incentive Evaluation Commission, where he serves as the Economist.

3. **Approval of minutes from January 25, 2024, Commission meeting:**

Rep. Earl Sears moved to approve the meeting minutes for January. Lyle Roggow seconded the motion. The following votes were recorded, and the motion passed:

Mr. Roggow, aye; Rep. Sears, aye; Dr. Tabrizy, aye.

4. **Report from Criteria Subcommittee on selection of the 2024 evaluation criteria for incentives review and possible discussion.** [Mandy Fuller and Earl Sears]

Representative Sears informed members that he experienced significant technical issues with his phone, which delayed receipt of information from PFM. He confirmed that he had received Randy Bauer's information on this year's incentive criteria, reviewed all the materials, and was satisfied with PFM's assessments. Chairman Roggow appreciated Representative Sears's acknowledgment.

Mr. Bauer reported that Commissioner Fuller had three specific recommendations for adjustments to the criteria. PFM incorporated these adjustments and provided copies to Commissioners Fuller and Commissioner Sears. He also shared that Commissioner Fuller approved the modified criteria.

Commissioner Sears concurred with Commissioner Fuller's recommendations for adjustments to the criteria for incentive evaluations moving forward.

Commissioner Johnson entered the meeting at 10:09 a.m.

Report only. No action was taken.

5. **Discussion and update on the progress of incentives review by PFM's Consultant Randall Bauer. The discussion will include benchmarking against 2024 evaluation criteria and timelines:**

Oklahoma Rural Jobs Program
Invest in Oklahoma Program
Seed Capital Fund
Small Business Incubator Tenants
Technology Business Financing Program (TBFP)
Historic Rehabilitation Tax Credit
Film Enhancement Rebate
Film and Television Production Companies Sales Tax Exemption
Enterprise Zone Incentive Leverage Act
Tourism Development Act
Quality Events Act
Five Year Ad Valorem Tax Exemption

The Commission was provided with an eight-page memo that examines each of the 12 incentives listed for 2024 and provides evaluation criteria. The memo also explains the intent of the synopsis and the programming associated with it.

Mr. Bauer, the Director of Public Finance Management (PFM), provided a recap of the work that the Commission has done up to this point. In January, the Commission established a four-year schedule for evaluating incentives. This year differs from the past, as incentives can now be adjusted within the four-year cycle, whereas previously, they had to be reviewed once every four years. PFM has implemented this approach and categorized the incentives approved at the January meeting.

Mr. Bauer reported that the Commission's first order of business is to approve and, if desired, modify the criteria that PFM will use for evaluations throughout the year. He shared how each of the twelve incentives will be assessed based on specific criteria during the current year.

PFM must address specific issues in all evaluations, including return on investment (ROI), economic-financial impact, how the program is administered, and whether the data is sufficient to evaluate the program, which is included in all the evaluations.

Oklahoma Rural Jobs Program is a standard initiative that requires a state return on investment (ROI), which is a requirement for all because it is required by statute. The program's primary goal is to stimulate job creation within businesses. PFM has identified specific criteria for evaluating the program's impact on businesses, including changes in revenue and profit following investment and potential employee relocations resulting from the investment.

The program focuses on access to capital, enabling companies to invest in job creation and productivity and improving their profitability. PFM has targeted this on both the job and business sides of the investments made from the rural jobs program.

The program is new and has not been evaluated by PFM in the past. Its effective date was November 2022, and not much data has been collected so far. It is essential to examine the program, considering how it has been set up and administered, as well as what data sources PFM can utilize. However, it is too early in the process for a proper evaluation. Typically, it takes 3 to 4 years from the program's setup to gather the necessary data needed for evaluation. In terms of the cycle, this program is combined with other similar programs, which is why PFM is reviewing this incentive, even though useful data may not be available.

Mr. Bauer explained that the criteria are somewhat irrelevant in some ways because they do not show that data is necessary for whatever the requirements are. Still, PFM will go through the evaluation process steps that satisfy the statute.

2024 Criteria for Evaluation:

- Program Use:
  - Number of businesses that receive investment from Rural Funds.
  - Total amount of investment in businesses from Rural Funds.
- State return on investment.
- Job creation in recipient businesses.
- Business revenue or profit increase after receipt of Rural Fund investment.
- Number of businesses who relocate employees due to receipt of investment from Rural Funds.

Invest in Oklahoma Program – This new equity fund program started in November 2021. The program's intent is to provide entities in Oklahoma with funds to invest in Oklahoma-based private equity funds, venture capital funds, and growth funds. The program is set up to allow a venture capital fund, growth fund, or private equity fund that is either Oklahoma-based or makes substantial investments in the State.

The program has not been evaluated in prior years, and PFM is beginning with the foundation of the program. PFM will examine its usage, the number of new applications from venture funds, growth funds, or private equity funds to participate in the program, the amount of annual investment in participating funds by Public Entities, and the number of Public Entities that invest in participating funds.

Mr. Bauer believes the program's data will start to be available. The program is administered by the Department of Commerce. Although unsure, he thinks the program is set up to be used for the Oklahoma Center for Advancement of Science and Technology (OCAST). PFM plans to get clarification from the Department of Commerce, and if i2E is participating in this, they will talk to them about the program's specifics.

2024 Criteria for Evaluation:

- Program Usage:
  - Number of new applications from venture funds, growth funds, or private equity funds to participate in the program.
  - Amount of annual investment in participating funds by Public Entities.
  - Number of Public Entities who invest in participating funds.
- Amount of annual investment from participating funds in Oklahoma businesses.
- Job creation in recipient businesses.
- Business revenue or profit increase after receipt of Rural Fund investment.
- State return on investment.
- Number of renewal applications (or percent of applications that are renewals).

Seed Capital Fund – The fund's intent is to provide seed investments to innovative Oklahoma businesses. It provides concept, seed, and start-up equity investments to Oklahoma's innovative businesses.

Mr. Bauer noted that PFM added year-over-year growth invested businesses for this fund, which mentions revenue growth as one of its purposes.

Investments are focused on industry sectors with technologies and proprietary products, processes, and/or know-how that provide high growth opportunities in addressable markets (e.g., advanced materials, aerospace, agri-sciences, biotechnology, communications technologies, energy, software/information technology, medical devices, nanotechnology, robotics, etc.). The Fund focuses on opportunities that promise rapid growth in terms of revenue, increased employment, and increased private investment capital.

2024 Criteria for Evaluation:

- Program Use.
- Amount of capital investment.
- Amount of private investment leveraged.
- Oklahoma jobs created by firms receiving incentive.
- Financial performance of the fund.
- Interaction or coordination with other programs or service offerings in the economic development or entrepreneurial support ecosystem.

- Case studies or other longitudinal tracking of program recipient growth outcomes.
- State return on investment.
- Urban vs. rural investment levels and outcomes.
- Market growth/gain of market share.
- Scale-up metrics, such as hiring growth, investment growth, etc.

Small Business Incubator Tenants—The Act's intent is to produce successful firms that will make the program financially viable and freestanding. Mr. Bauer noted that the value of the incubator and its offerings to the tenants differs from the incentives evaluated by PFM.

When PFM visited some Incubators last year, they observed that the primary value provided by the state is access to business planning and day-to-day operational assistance. While tenants also receive physical facilities, this is not the main benefit they gain. PFM should assess the incubator program by considering more than just the tax benefits that tenants receive. With approval from the Commission, PFM has acknowledged that the program provides additional value beyond these tax incentives, indicating that other significant benefits or resources are available to tenants that contribute to their success.

Mr. Bauer shared that due to commingling, the tax commission has a miscellaneous line on its tax form that captures various tax credits, making it impossible to determine how much relates to any individual credit. This is a conversation PFM has had with Commissioner. It would be helpful if there were an alpha character on the form to identify each miscellaneous credit, but this presents challenges, as some taxpayers may claim more than one. Ultimately, PFM cannot ascertain the dollar value associated with these credits, but they can analyze the other values related to the program.

For a period of up to 10 years from the date of the tenant's occupancy in an incubator, income earned by the tenant as a result of activities conducted as an occupant in an incubator, including income distributed to partners, shareholders of a corporation for which a Subchapter S election is in effect and to the members of a limited liability company, shall be exempt from state income tax. The exemption provided by this section shall remain in effect for such activities by such tenant after the date the tenant is no longer an occupant in an incubator, but not to exceed a total duration of 10 years for any tenant.

2024 Criteria for Evaluation:

- Number and type of small businesses served as a result of the program.
- Graduation/success rate of small business served as a result of the program.
- Employment and payroll associated with small businesses served as a result of the program.
- Case studies or other longitudinal tracking of program recipient growth outcomes.
- Interaction or coordination with other programs or service offerings in the economic development or entrepreneurial support ecosystem.
- Economic activity associated with program funding.
- State return on investment.
- Urban vs. rural participation levels and outcomes.

Technology Business Financing Program (TBFP) – The program's intent is to support the formation of new private sector startups and enhance their ability to advance to the next stage of investment. Its longstanding program provides Oklahoma tech start-up companies with pre-seed financing and early-stage risk capital to stimulate investments from private sources.

Mr. Bauer informed commission members that this program has data issues regarding determining the benefit and is administered through a contract with i2E Inc., with awards ranging up to $100,000.

Mr. Bauer noted that Commissioner Fuller made recommendations for this program, which PFM accepted. Commissioner Fuller suggested that PFM examine the percentage of investments repaid in the first, second, and third years. PFM also added the rate of write-offs since that is also a key concern.

Mr. Bauer discovered that the version presented at today's meeting was older and did not reflect Commissioner Fuller's recommended adjustments. He will look for and distribute those additional criteria for this incentive. He noted that the Commission could always amend the criteria at any point in the process. He suggested that the members approve the current criteria, and he will provide the additional ones at the August meeting for their approval. PFM will base its work on these criteria.

Mr. Bauer informed the members that another suggestion from Commissioner Fuller is not included in this version. However, there is a program aimed at accelerating growth for companies, which she suggested adding, and PFM has incorporated that as well. When he addresses that program, he will make a note of it.

Mr. Bauer reiterated that regarding payment timing, PFM will add the criteria: the percentage of funding provided that is repaid within the first, third, and fifth years, respectively, as well as the percentage that has been deemed uncollectable.

Mr. Bauer also informed commission members that Commissioner Fuller had also suggested that PFM look at the royalty payments as part of the return-on-investment calculation because if the fund recaptures royalties, then that is part of what the State now has as a benefit since it is a state fund. It is in the criteria but is something PFM will look at when calculating the return on investment.

The Center for Advancement of Science and Technology (OCAST) guidelines require that the company is a small business (500 employees or less) with at least 50 percent of its employees and assets located in Oklahoma. Matching capital from private sources is required to be between 5 percent and 50 percent of state investment, depending on the project.

Funding provided must be repaid within 5 years, according to the following schedule:
- 1.25x if repaid within 1 year.
- 1.75x if repaid within 3 years.
- 2x if repaid beyond 3 years.

Royalties are also shared as part of the program according to the following schedule:

- 5 percent of gross revenue at earlier of 1 year after funding or when gross revenue exceeds $25,000 per quarter.
- 7 percent of gross revenue at earlier of 2 years after funding or when gross revenue exceeds $50,000 per quarter.
- 10 percent of gross revenue at earlier of 3 years after funding or when gross revenue exceeds $100,000.

2024 Criteria for Evaluation:

- Jobs/payroll associated with the program.
- Use of the program over time.
- Comparison of participant success rates to tech start-ups, generally.
- Interaction or coordination with other programs or service offerings in the economic development or entrepreneurial support ecosystem.
- Percentage of funding provided that is repaid within one, three, and five years, respectively, and the percentage deemed uncollectable.
- State return on investment.
- Case studies or other longitudinal tracking of program recipient growth outcomes.
- Return on investment from an equity standpoint.
- Urban vs. rural participation levels and outcomes.

Historic Rehabilitation Tax Credit – The intent of the tax credit is to encourage the rehabilitation and preservation of historic properties in Oklahoma. The state offers a tax credit for rehabilitation expenditures incurred in connection with any certified historic structure. The credit is equal to the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code.

Mr. Bauer informed members that the only difference in criteria from 2020 is that PFM added the type of use for rehabilitated structures, specifying whether it is housing, condos, hotels, or other commercial uses. Some state programs require rehabilitation to be for commercial use, while Oklahoma does not. Generally, projects aimed at commercial use tend to offer a better return on investment because they are likely to generate corporate income. In contrast, projects for personal use primarily benefit from real estate tax advantages and is the difference among such states.

2024 Criteria for Evaluation:

- Jobs/payroll associated with the program.
- Total amount of rehabilitation expenditures and number of qualified projects.
- State tax credit as a percent of total rehabilitation improvement for qualified projects.
- Change in assessed value for rehabilitation projects approved for credit.
- Percent of qualified structures on the national registry of historic places that receive assistance.
- Economic impact related to tourism, sales tax generated, etc.
- Use with other related business incentives.
- Return on investment (economic impact versus financial impact).
- Type of use for rehabilitated structures (i.e., housing, hotel, etc.).

Film Enhancement Rebate – The intent is not indicated in the statute. The state offers a rebate for expenses incurred in the production of films, including, but not limited to: national advertising messages that are broadcast on a national affiliate or cable network, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets. The rebate is equal to 35 percent of qualified expenses.

Mr. Bauer gave an overview of previous years this rebate has been evaluated. He does not understand why the tax expenditure report does not list this rebate and plans to discuss why with Commissioner Wood and Commerce.

2024 Criteria for Evaluation:

- Jobs/payroll associated with the program.
- Marginal wages and salaries paid to Oklahoma residents by films eligible for the rebate – comparison to the period prior to the rebate.
- Film-related expenditures in Oklahoma by films eligible for the rebate – comparisons to the period prior to the rebate.
- Growth in employment and wages in the industry in Oklahoma compared to nationally and benchmark states (shift-share analysis).
- Additional identifiable business activity directly or indirectly produced by films eligible for the rebate.
- Additional identifiable benefits that accrue to the State by films eligible for the rebate.
- Return on investment (economic activity versus rebates paid).

Film and Television Production Companies Sales Tax Exemption – The intent is not indicated in the statute. The sales tax exemption provides a tax exemption on the sales of tangible personal property to a qualified motion picture or television production company to be used or consumed in connection with an eligible production. This exemption has not been evaluated in prior years.

Mr. Bauer informed members that the sales tax exemption was not evaluated in previous years because the commission can choose not to evaluate incentives below a specific dollar value. The commission has established a threshold of $1 million in annual financial impact; if an incentive is below this amount, they may opt not to evaluate it, although they still have the option to do so. The sales tax exemption falls below the threshold. Additionally, these exemptions are layered and can only be used in conjunction with the rebate, and they must pertain to qualified productions. It is understood that companies are considering these options together.

Furthermore, the Commission has often examined the issue of layering. One of the major incentives the Commission will consider in the coming years is the Governor's Quick Action Closing Fund, which is, by definition, a layered program. It combines a package of incentives, with the Quick Action Closing Fund acting as a sweetener to help finalize a project. Therefore, it makes sense to evaluate these options simultaneously.

2024 Criteria for Evaluation:

- Jobs/payroll associated with the program.
- Marginal wages and salaries paid to Oklahoma residents by films eligible for the rebate – comparison to the period prior to the rebate.
- Film-related expenditures in Oklahoma by films eligible for the rebate – comparisons to the period prior to the rebate.
- Growth in employment and wages in the industry in Oklahoma compared to nationally and benchmark states (shift-share analysis).
- Additional identifiable business activity directly or indirectly produced by films eligible for the rebate.
- Additional identifiable benefits that accrue to the State by films eligible for the rebate.
- Return on investment (economic activity versus rebates paid).

Enterprise Zone Incentive Leverage Act – The intent is not indicated in the statute. The Act provides funding for local units of government to match local tax revenue dedicated to support a project located in an enterprise zone, in support of a major tourism destination, or in support of a military growth impact. Enterprise Zones can be designated in disadvantaged counties, cities, or portions of cities.

Mr. Bauer noted that there is growing interest in this incentive. The Department of Commerce has identified additional projects likely to utilize it. PFM believes this warrants a review of case studies and a look at local impacts.

2024 Criteria for Evaluation:

- Program usage:
  - Number of new projects.
  - Annual amount of matching funds associated with the program.
  - Number of projects outside of Oklahoma City.
- Job creation associated with the program.
- State return on investment.
- Positive project net benefit rate.
- Results associated with enterprise zones (such as increases in property values or enhanced infrastructure within the zone).
- Project summary/descriptions.
- Local impacts (ad valorem taxes, hotel/motel, etc.).

Tourism Development Act – The intent is not indicated in the statute. The Act promotes investment in new or expanded tourism sites such as entertainment districts, destination hotels, arenas, museums, theme parks, cultural centers, and others. Eligible developments enrich quality of life and attract at least 25 percent of their visitors from out-of-state. For projects that meet requirements, the eligible companies may receive sales tax credits or a sales tax incentive payment annually for up to 10 years up to the amount that is revenue-neutral to the state or 25 percent of the approved development costs, whichever is lower.

Mr. Bauer noted that the incentive changed ownership at the state level and is now within the Department of Commerce, where it had not been before.

2024 Criteria for Evaluation:

- Program usage:
  - Number of visitors to participating sites that originate from out-of-state.
  - Number of new participating sites on an annual basis.
  - Amount of capital investment in participating sites.
- Improved quality of life measures in the surrounding area:
  - Changes in employment, including salaries and wages.
  - Changes in capital investment.
- State return on investment.

Quality Events Act – The intent of the Act is to assist with the promotion of quality events in Oklahoma and to assist the promoters and organizers of the events with planning and performance. The State of Oklahoma has a legitimate interest in economic development related to the occurrence of quality events, and the Legislature finds that the use of state sales tax revenues authorized by this act provides a method by which the state can compete successfully in a national and global economy against other jurisdictions offering similar incentives for such events. Local governments may apply for reimbursement of certain expenses related to hosting a "Quality Event." The reimbursements are paid using incremental state sales tax revenue attributable to the event. Host communities may capture incremental state sales taxes up to the lesser of $250,000 as supported by the economic impact or the eligible local support from the community.

Mr. Bauer reported that this is one where the Commission had made some changes to the program design in the past. The act is focused on local events. There have been concerns regarding the data necessary for submitting reimbursement requests to the Tax Commission for these events. PFM wants to re-examine the administrative aspects of this program to ensure it is effective and that agencies can utilize it for the types of events that they are holding. That was a concern previously, and PFM aims to determine if there have been improvements.

2024 Criteria for Evaluation:

- Economic impact of qualifying events.
- Revenue impact of qualifying events.
- Existing versus new qualifying events.
- Additional quantifiable impacts for the State from qualifying events.
- Return on investment for qualifying events.

Five Year Ad Valorem Tax Exemption – The five-year ad valorem tax exemption exempts all real and personal property necessary for manufacturing a product and facilities engaged in research and development that meet the requirements set by the Oklahoma Constitution and Statutes. New or expanding electric wind generation facilities (until Jan. 1, 2017), data processing facilities, manufacturing facilities, and distribution facilities may qualify for the exemption. Facilities must meet payroll requirements in order to receive the exemption for all five years.

Mr. Bauer noted that PFM spent considerable time on this evaluation in 2020 because it is substantial. He noted that the Ad Valorem reimbursement funds, which are dedicated funding equal to one percent of annual tax collections, continue to be insufficient to cover the cost of reimbursements. As a result, reimbursements are still being made, even though the fund does not contain enough money, which limits other potential uses.

2024 Criteria for Evaluation:

- Change in the number of jobs associated with the exemption.
- Change in total payroll associated with the exemption.
- Change in capital investment associated with the exemption.
- But-for test – change in jobs/payroll/capital associated with the exemption versus state growth rates as a whole.
- Use with other related business incentives.
- Change in other government revenues and expenditures associated with facilities receiving an exemption.
- Impacts of recent changes to the incentive.
- Return on investment - economic activity versus financial net cost.

Update and discussion only. No action was taken.

6. Discussion and possible action approving the 2024 evaluation criteria for each incentive.

Rep. Earl Sears moved to accept the twelve recommended evaluation criteria for incentives reviewed at this meeting and to accept the new criteria and the modifications set forth. Dr. Saleh Tabrizy seconded the motion. The following votes were recorded, and the motion passed:

Mr. Johnson, aye; Mr. Roggow, aye; Mr. Sears, aye; Dr. Tabrizy, aye.

7. Announcements: Next meeting date.

The next Incentive Evaluation Commission meeting is August 22 at 10 a.m.

8. New Business. None.

9. Adjournment

There being no further business, Rep. Sears moved to adjourn. Dr. Tabrizy seconded the motion. Seeing no opposition, the Chair adjourned the meeting at 11:36 a.m.