



MEMORANDUM

From: Liveable City Board of Directors
To: Council Subcommittee on Economic Incentives
Re: Recommended Improvements for COA Economic Incentive Policy and Process
Date: September 25, 2012

EXECUTIVE SUMMARY

Liveable City respectfully recommends the following improvements for the City of Austin's current economic incentive policy and process:

1. Employ a public process to identify specific goals the city intends to achieve through the use of economic incentives, and revise the city's written policy and evaluation matrix to align with these identified goals and ensure accountability.
2. Require companies receiving city subsidies or incentives to provide living wages and access to health care benefits for all workers.
3. Adopt three essential reforms for the process of evaluating and granting incentives:
 - a. Require a City Council briefing in executive session by the City Manager, Assistant City Manager, Economic Growth and Redevelopment Services Office (EGRSO) Director and staff before the City Manager accepts a staff recommendation and contacts applicant with letter of proposed incentive.
 - b. Require confidential disclosure of competing localities by applicant.
 - c. Require supporting information for each element of the evaluation criteria matrix to be attached to matrix and available for all City Council briefings, public postings and public hearings.
4. Create a unified economic development budget and produce an annual report tracking current incentive agreements.

INTRODUCTION

In 2008, Liveable City produced a study on the City of Austin's use of economic incentives. "Building a More Sustainable Economy: Economic Development Strategy and Public Incentives in Austin,"¹ authored by Dr. Michael D. Oden, examined the city's policies and processes and recommended six key reforms based on national best practices.

The city has since adopted three of Liveable City's original recommendations in at least partial form, leading to basic improvements in the evaluation process, the removal of retail projects from incentive consideration, and an enhanced focus on attracting green industries. However, several recent incentive agreements have highlighted areas where the city's incentive process will benefit from further adjustment.

The recommendations presented in this memorandum are intended to reflect and build on those discussed in Liveable City's 2008 Study. See the Study for a more detailed discussion of each recommendation. We submit them for consideration by the Subcommittee with the goal of ensuring that our public investments are fair, transparent, clearly targeted to well-defined needs and supported by the community.

BACKGROUND

Each year, hundreds of companies open, relocate or expand in Austin, creating thousands of jobs and enriching our tax base *without* benefit of public incentives. On March 22, 2012, the *Austin American-Statesman* reported: "Austin ranked No. 1 among the nation's 50 largest metro areas in job growth over the past eight years. Its 140,200 new jobs represented a 21.3 percent increase from the start of 2004.... For 2011 alone, Austin was No. 2 in the nation in job growth."

With an 18 percent population increase over the past five years, Austin is one of the nation's fastest growing cities and is clearly attractive to thousands of individuals and businesses on its own considerable merits. In fact, the city now struggles to keep pace with rapid growth even as we face shrinking vital resources, such as water, transportation, and education.

In this climate, simply creating jobs and adding to the tax base can no longer be sufficient grounds to qualify a business for public financial incentives. Many area businesses provide these same benefits every day and the city is not prepared to distribute incentives to all of them.

In addition, there is a growing perception that city incentives are pre-determined behind closed doors, effectively decided long before their hearing by City Council and the general public. Residents have also expressed mounting frustration about the use of public funds to subsidize wealthy corporations, while Austinites struggle under a growing tax burden and basic city services are trimmed due to budget shortfalls.

¹ Full study available at: www.liveablecity.org

For these reasons, it is imperative that future city economic incentives be used in strategic ways to address clearly identified problems and that they be awarded in a process that is as transparent and accountable as possible. Moreover, any future incentives must support specific agreed-upon community goals developed with the input of the Austin taxpayers who will ultimately foot the bill for these deals.

LIVEABLE CITY RECOMMENDATIONS

1. Employ a public process to identify specific goals the city intends to achieve through use of economic incentives, and revise the city's written policy and evaluation matrix to align with these identified goals and ensure accountability.

Given Austin's current growing pains, this is an ideal time to step back and reevaluate what we as a city hope to achieve through economic incentives. To gain citizen support, it is essential to engage the public to identify specific agreed-upon community goals that demonstrably benefit the residents of Austin. The city's evaluation matrix should then be aligned with these identified goals.

In addition, these community goals should be stated in Austin's economic incentive policy and be distributed to applicants seeking incentives, as well as to all city staff and Council Members considering incentive proposals.

Finally, to increase accountability, all incentive agreements should include clear benchmarks, a mechanism for monitoring, and a termination clause if benchmarks are not met. To further protect the city and its taxpayers, all incentives should be awarded in the form of rebates with the onus on the recipient company to prove it has met specific goals and conditions.

2. Require companies receiving city subsidies or incentives to provide living wages and access to health care benefits for all workers.

In discussing the growing income inequality of U.S. cities, Dr. Thomas Sugrue of the University of Pennsylvania recently said that a sensible rule of thumb for public policy is to ask what it does for the bottom 50 percent of our population. Obviously, the city cannot control what private companies do, but we can set a high bar for those that seek substantial public subsidies from the city.

While a public process may identify additional goals, Liveable City believes providing living wages and access to health care coverage is a fundamental one. Absent a strong threshold requirement for these basic items, the city and other local governmental bodies will be forced to provide critical services for low income workers after subsidizing their employer.

Part-time, contract, and seasonal workers (as well as lower wage full time workers of small businesses) typically are not offered health insurance even when their employers cover fulltime

workers. The City’s economic incentive policy should include requirements that ensure access to health coverage for these workers, as well as the fulltime workers of any company that receives an incentive. In addition, companies that receive incentives and intend to subcontract for construction of new facilities should be required to provide access to health coverage to construction workers for these new facilities.

The City’s Economic Incentive Policy can implement the basic requirement for access to health coverage through a range of options, such as extending current COA contracting requirements or employing a Pay or Play model similar to Houston’s program.

The impending healthcare reform is not a reason to forgo requiring access to health coverage. Unfortunately the City cannot rely on healthcare reform requirements to ensure coverage. Although the Affordable Care Act does require large employers to offer coverage or pay a penalty, these requirements only apply to fulltime employees. Employers typically do not cover part-time, contract, or seasonal employees who may form a significant portion of their workforce. Further, coverage offered by employers may not be affordable for their lower wage fulltime workers.

In addition, the City cannot assume that low wage workers will be able to purchase individual coverage under health care reform. The impact of health care reform on low wage workers is unknown at this time. However, millions of workers likely will not be able to afford coverage under an Exchange based on projections of premium costs, subsidy amounts, and individuals’ required contribution levels. See illustrative chart below. The impact of health reform on this population will only be seen over the next 2 to 4 years, after Exchanges and subsidies become operational in 2014.

Federal subsidies alone may not be sufficient due to the assumption that affordability is equivalent to 9.5% of income and the employer does not pay a share. A low wage worker making about \$16.11/hr (300% FPL) is expected to pay about \$273 / month for insurance, which does not include cost sharing. A low wage worker making about \$10.74/hr (200% FPL) is expected to pay about \$120 / month for insurance, which does not include cost sharing. In the experience of TexHealth Central Texas, a local, multi-share program for small businesses, workers at this level can only pay less than \$100/month towards health insurance.

**Premium Costs Under Health Care Reform
40 Year Old Worker, \$4,500 Total Premium (\$375/month)
Based on 2014 dollars, Silver Premium**

Wage Level	Poverty Level	Individual Pays	Individual Monthly	Subsidy Pays
\$10.74 / hr	200%	\$ 1,450	\$ 120.83	\$ 3,050
\$13.43 / hr	250%	\$ 2,315	\$ 192.92	\$ 2,185
\$16.11 / hr	300%	\$ 3,279	\$ 273.25	\$ 1,221

Source: Health Reform Subsidy Calculator, Kaiser Family Foundation

The premiums are illustrative examples in 2014 dollars derived from estimates of average premiums for 2016 from the Congressional Budget Office. For a 40 year old single adult, the premium for a silver plan is assumed to be \$4,500 for a plan with a 70% actuarial value. To the extent that actual expected enrollment in 2014 differs from what CBO assumed for 2016 -- e.g., it has a different composition of people by health status or age --then premiums could vary from this amount.

Premium subsidies are based on a silver plan (with an actuarial value of 70%), so all premiums shown are for silver coverage. People may be able to pay a lower premium for less comprehensive coverage (i.e., a bronze plan, with an actuarial value of 60%). The tables showing results by age and income also reflect premiums for silver coverage, though the minimum insurance that people would be required to obtain would be bronze coverage.

Note – 60% actuarial value means that the plan pays 60% of costs and the individual pays 40% in copays, deductibles and other cost-sharing measures.

3. Adopt three key reforms for evaluating and granting incentives.

The city's current incentive evaluation process should be made more rigorous and open, without compromising efficiency and timeliness, through adoption of the following measures:

- a. Require a City Council briefing in executive session by the City Manager, Assistant City Manager, Economic Growth and Redevelopment Services Office (EGRSO) Director and staff before the City Manager accepts a staff recommendation and contacts the applicant about a proposed incentive.**

The city's current incentive process does not provide for a City Council briefing until after the City Manager has accepted a staff recommendation and tendered a written proposal to the prospect. While the written proposal does include the caveat that it is subject to Council approval, the fact that the proposal has already been offered may make it difficult for City Council members to subsequently raise significant questions or request changes to the proposal in a public meeting. The late involvement of City Council in the current process also contributes to a growing perception that the public hearing and Council vote are *pro forma* exercises, without the opportunity to significantly impact the terms of the proposal.

Requiring a confidential briefing early in the process would allow Council Members to raise critical questions before the City Manager tenders a proposal to the prospect. Further, it would allow elected representatives accountable to Austin taxpayers to review how well the proposal aligns with identified goals and to provide guidance to the City Manager regarding significant investments of public funds.

Closed session discussion of incentive proposals is specifically permitted by state law, according to the Texas Attorney General's 2012 Open Meetings Handbook available at this link:

https://www.oag.state.tx.us/AG_Publications/pdfs/openmeeting_hb.pdf

On page 49, the handbook states:

*"14. Section 551.087. Deliberation Regarding Economic Development Negotiations
This provision reads as follows:
This chapter does not require a governmental body to conduct an open meeting:
(1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or
(2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1)."*

Thus, the City Council may choose to review or discuss proposed incentives in closed session. Liveable City strongly urges the city to adopt this practice as a standard part of the incentive review process before the City Manager tenders an offer to a prospect.

b. Require confidential disclosure of competing localities by applicant.

The city should require disclosure, by either firm representatives or site selection consultants, of other localities that are competing for a firm location as part of the application process for any city incentives. To address confidentiality concerns, names of competing cities may remain confidential during the part of the process that is legitimately shielded from Open Records requests, but should be made available to EGRSO staff and City Council members in executive session in order to provide the opportunity for due diligence in evaluating applications.

c. Require supporting information for each element of the evaluation criteria matrix to be attached to the matrix and available for all City Council briefings, public postings and public hearings.

The current evaluation matrix simply provides number scores for each element but absent supporting data, it is impossible to understand how staff arrived at these scores. The City Council and members of the public should have access to the same information on which staff relied to make its evaluation, with the exception of materials that are legally shielded from Open Records requests.

4. Annually produce a unified economic development budget and report tracking current incentive agreements.

The city’s Economic Growth and Redevelopment Services Office should produce an annual unified economic development budget that maps city departments and sub-departments to specific policies, expenditures and activities directed to economic development.

Such a document will:

- Provide the public with clear information about all city activities and spending related to economic development.
- Help the city avoid duplication of effort, allowing it to direct responsibilities and funding to the most appropriate and competent departments.
- Enable the city to assess performance and returns on public investment to promote more efficient resource allocation.

In addition, EGRSO should produce and publicize an annual report updating progress on all ongoing incentive packages including a performance review of each firm or project receiving incentives and an accurate account of public funds associated with each agreement.

CONCLUSION

In the four years that have elapsed since Liveable City's original 2008 incentives study, Austin has experienced significant growth and change. Recent incentive arrangements have also allowed the opportunity to better understand how current policies and processes function and identify areas that may benefit from adjustment.

Liveable City believes this is a timely moment to review the city's economic incentive policies with an eye toward improvement and greatly appreciates the work of the Council Subcommittee in thoughtfully examining the City of Austin's policy and process for economic incentives. We submit the above recommendations in a spirit of collaboration with the Subcommittee to ensure that Austin's economic incentives are strategically aligned with community needs and are awarded in a process that is as fair, transparent and targeted as possible.