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Accountants & Advisors

Utah Governor's Office of Economic Opportunity

Report on applying agreed-upon procedures on the records of the Economic Development Tax Increment Financing post-performance tax credit program

As of June 30, 2022,2021, and 2020 and for the Fiscal Years than ended.

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INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

Advisory Board and Management
Utah Governor's Office of Economic Opportunity

We have performed the procedures enumerated below, which were agreed to by the Advisory Board and management of the Utah Governor's Office of Economic Opportunity (GOEO) on the records of the Economic Development Tax Increment Financing (EDTIF) post-performance tax credit program (the Program) as of June 30, 2022, 2021, and 2020, and for the fiscal years then ended. Management is responsible for the accuracy and completeness of the records of the Program. The sufficiency of these procedures is solely the responsibility of the GOEO Advisory Board and management. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which they were requested or for any other purpose.

Executive Summary
The purpose of the Program is to foster and develop industry in Utah, to provide additional employment opportunities for Utah citizens, and to improve Utah's economy through post-performance, refundable tax credits and cash rebates on new state revenue for companies seeking relocation to and expansion in Utah. Businesses apply to participate in the Program. Following review and approval of the application by the GOEO board, GOEO enters into a written agreement with businesses authorizing a tax credit. The written agreement identifies the requirements for claiming the tax credit or cash rebate. A post-performance tax credit or rebate is issued when it is determined the business has fulfilled their wage, headcount and other requirements under the agreement. Every three years, GOEO is required to have an evaluation done on the tax credits issued. This report has been prepared to satisfy that requirement for the period from July 1, 2019 through June 30, 2022.

To provide an understanding of the size and growth of the Program, we note that the GOEO records indicate an increased number of tax credits/cash rebates issued during the current evaluation period over the previous evaluation period as follows:

Years Ended June 30	Number of Tax Credits/ Cash Rebates		Amount (*in thousands*)
2020-2022	158	$	74,988
2017-2019	145	$	62,103

As described more fully in our findings, we recalculated, from information provided by management, a return on investment of the Program as follows (*in thousands*):

		Reported/Generated Fiscal 2022/2019		Reported/Generated Fiscal 2021/2018		Reported/ Generated Fiscal 2020/2017
Calculated ROI	$	55,191	$	97,565	$	81,028

36 S. State St., Suite 600, Salt Lake City, UT 84111-1400

We also recalculated a percentage of new State of Utah revenues as compared to administrative expenses and Program tax credits as follows:

Year	New State of Utah revenues as a percentage of Program expenses and tax credits/rebates
2022	454%
2021	384%
2020	415%

We performed the procedures noted below over the Program for the current evaluation period that includes the years ended June 30, 2022, 2021 and 2020. The procedures focused on a sample of 80 tax credit certificates/cash rebates out of a total of 158 issued during that period. We previously performed similar procedures over the Program for the years ended June 30, 2019, 2018 and 2017, reviewing a sample of 80 certificates/cash rebates out of a total of 145 issued during that period. In addition, we performed procedures outlined in this report relating to job creation numbers reported in the GOEO annual reports and commitments in the CAFR. We performed procedures directed at determining whether GOEO management complied with ethical, statutory, contractual and procedural requirements applicable to administering the Program. Finally, we analyzed the costs of the Program in comparison to the return on investment of the Program.

The following are exceptions noted as a result of applying the procedures. These matters are described in our findings. Other information is included in the findings that is useful in understanding the results of applying the procedures.

- **Excess Credit** – For two of the EDTIFs selected, both for the same company, the incentive percentage used in the tax credit calculation did not match the contract. This resulted in an excess tax credit being awarded, the first awarded in 2021 in an excess of $6,556 and the second awarded in 2022 in an excess of $32,208. GOEO management represented that the excess credit will be netted against a future tax credit.

- **GOEO Annual Report -** The number of new high paying jobs in the fiscal 2022 Annual Report were not updated, and reflected the data related to calendar year 2019, which should have been calendar year 2020. Management indicated that after the finding was reported they were able to update and push out a revision of the 2022 Annual report to correctly reflect the calendar year 2020 data.

- **CAFR -** The outstanding long-term contract commitments reported in the fiscal 2022 CAFR did not match the GOEO reconciliation of long-term contract commitments. Management indicated that GOEO does not receive the final credits issued amounts from the Utah State Tax Commission to reconcile the numbers. Management also indicated that they have requested the Utah State Tax Commission to provide the needed information, but the information has not been forthcoming and this has been an issue since the formation of the EDTIF credit.

Agreed-Upon Procedures and Findings

1. **We validated Economic Development Tax Increment Financing tax credits or rebates issued by performing the following procedures:**

Application

a. We obtained a list of EDTIF tax credit certificates/rebates issued from July 1, 2019 through June 30, 2022 and randomly selected a sample of 80. For each EDTIF tax credit certificate/rebate selected we performed the following procedures:

i. We obtained the certificate of compliance submitted by the EDTIF tax credit recipient (the Recipient) and determined if it was signed by an officer of the Recipient and if the signature was notarized.

Findings: All of the certificates of compliance provided to us were signed and notarized.

ii. We determined whether documentation was obtained by GOEO from the Recipient that (a) indicated the new state revenues from the new commercial project that were paid during the preceding calendar year, (b) disclosed known or expected detriments to the state or existing businesses in Utah, (c) directed the Utah State Tax Commission to disclose to GOEO the returns of the Recipient and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, and (d) indicated the Recipient has satisfied the performance benchmarks outlined in the written agreement with GOEO authorizing a tax credit, including:

1. The creation of new incremental jobs that are also high paying jobs;
2. Significant capital investment;
3. Significant purchases from Utah vendors and providers; or
4. A combination of 1, 2 or 3.

Findings: There were no exceptions noted as a result of applying the procedure. In determining whether information was obtained from the Recipients about known or expected detriments to the state or existing businesses in Utah, management indicated (and provided an example application) that the following questions have been included in the applications during the time periods indicated: December 2011 to present - "Explain any outstanding material issues facing the company (i.e. bankruptcy, pending legal issues, etc.) that could affect the project. Are there any negative impacts attributable to this project and how will they be addressed?" and December 2005 to 2011 - "List the negative effects your business operation would have on the community (including environmental issues which would be addressed). List all outstanding material issues facing your company, which could have a negative impact."

Board Approval

iii. We determined whether the Board of Business and Economic Development had been consulted prior to GOEO entering into written agreements with Recipients authorizing tax credits. Specifically, we reviewed GOEO board minutes approving written agreements authorizing tax credits with 8 haphazardly selected Recipients from the list of 80 selected in procedure #1.a.

Findings: The board minutes obtained documented that the GOEO board had discussed and approved the agreements in advance.

Contract Terms

iv. We determined whether the written agreements authorizing a tax credit do not authorize or commit to authorize tax credits that exceed the limits in Utah Code 63N-2-104(3)(c).

Findings: None of the written agreements authorized or committed to authorize tax credits that exceeded the limits in Utah Code 63N-2-104(3)(c).

v. We determined whether the written agreements entered into by GOEO authorizing a tax credit for the Recipient (a) specified the requirements that the Recipient shall meet to qualify for a tax credit, (b) specified the maximum amount of tax credit the Recipient may be authorized for a taxable year and over the life of the new commercial project, (c) established the length of time the Recipient may claim a tax credit, (d) required the Recipient to retain records supporting a claim for a tax credit for at least four years after the Recipient claims a tax credit, and (e) required the Recipient to submit to audits for verification of the tax credit claimed.

Findings: All written agreements included the contract terms described in (a) through (e) of the procedure above.

Tax Credit Recalculation

vi. We recalculated the amount of the EDTIF tax credit using the written agreement between the Recipient and GOEO and other information in accordance with the provisions of Utah Code 63N-2. Specifically, we performed the following:

Wage Requirement

1. We gathered wage information from Recipient contracts and GOEO information that was derived from DWS data on individual companies and DWS county level data used to evaluate applications for participation in the EDTIF program. The information included the relevant county wage, sum total of wages reported, and average employee count. We then calculated the Recipient's average wage and the minimum wage required by the contract. Based on this information, we determined whether each Recipient met the minimum wage requirement per the contractual requirements and whether our sum total wage and average employee calculated amounts agreed to GOEO's calculated amounts.

   Findings: 1. All Recipients met the job-growth contractual requirement. Companies that did not initially meet their average wage requirement, when considering all jobs created, management utilized a methodology in evaluating if a company has met the wage criteria for new jobs created. The methodology is used to determine whether the wage and new jobs requirement in the contract have been met for the highest paying jobs. Under the methodology, the wage requirement is calculated by using the average county wage for the current year multiplied by the wage multiplier as specified in the contract. The wage requirement computed is used to evaluate the highest paying new jobs created to determine if the company met the minimum required number of qualified new jobs. GOEO management believes that generally, this methodology has been used since the beginning of the Program and GOEO has increased the amount of documented analyses related to qualification and number of new high paying jobs as compared with assessments completed prior to 2016. 2. There were no exceptions as a result of applying the procedure.

2. We randomly selected 10 of the 80 companies selected in procedure #1.a. We then randomly selected 2 months of total wages for each of the 10 companies selected and agreed them to the DWS database. We also agreed the number of employees used in the tax credit calculation to the DWS database.

   Findings: There were no exceptions as a result of applying the procedure.

Headcount Requirement

1. We gathered information from the written agreements of the 80 Recipients selected in procedure 1.a. and GOEO information derived from DWS data and company-provided data, including the following: the percent of projected headcount for the period, baseline headcount, and total period-ending headcount for the period. We calculated the number of incremental jobs above the baseline headcount and the minimum headcount requirement (above the baseline) for the period. Based on this information, we determined whether each Recipient met the job-growth requirement per contractual requirements.

   Findings: All Recipients met their job-growth contractual requirement.

Incentive Calculation

1. We gathered information for each of the 80 Recipients selected in procedure 1.a. from Recipient contracts and GOEO provided data that included contract life, EDTIF award amounts (maximum disbursement / incentive cap per contract), incentive rate for the period, annual baseline tax (employee withholding, sales and use taxes, corporate income tax), total incentives paid/issued and actual total tax for the period. From this information, we calculated the incremental tax for the period, the incentive amount and total incentive remaining.
   Based on this information, we: (1) agreed the recalculated incentive amount to the amount of the tax credit certificate issued, (2) determined whether the incentives issued do not exceed 50% of the incremental state tax revenues from the new commercial project, (3) determined whether the cumulative payouts did not exceed the Recipients contractual maximum, and (4) determined whether the period in which the Recipient received the incentive was not outside of its contract life.

   Findings: For two of the EDTIF's related to one of the companies selected, the incentive percentage used in the tax credit calculation did not match the contract. This resulted in an overstated tax rebate. Management indicated that the tax credit for this company will be reduced in a future period to correct the error.

2. We randomly selected 20 of the 80 companies selected in procedure #1.a. and performed the following:

   i. From the 20 companies selected, we randomly selected two months of tax receipts used in the tax credit calculation for the tax credit certificate issued during the period July 1, 2019 through June 30, 2022 and agreed them to the Utah State Tax Commission database.

      Findings: There were no exceptions noted as a result of performing the procedure.

vii. We determined from information provided by management that a duplicate copy of the EDTIF tax credit certificate was provided to the Utah State Tax Commission.

Findings: Management provided us with a copy of an email to Utah State Tax Commission employees dated August 11, 2022. The email included an Excel workbook with data on tax credits issued by GOEO.

2. We validated the number of jobs reported and other information in the GOEO Annual Reports for fiscal years 2022, 2021 and 2020 by performing the following procedures:

a. We obtained the GOEO Annual Reports for fiscal years 2022, 2021 and 2020 and agreed the number of incremental jobs reported to the total jobs included in GOEO’s records.

   Findings: There were no exceptions noted as a result of performing the procedure.

b. We compared the number of new high paying jobs reported in the GOEO Annual Reports for fiscal years 2022, 2021 and 2020 to supporting documentation maintained by GOEO.

- ***Findings:*** The GOEO Annual Report "High-Paying Jobs by Target industry" on page 60 agreed to calendar year 2019 data instead of calendar year 2020. In response to our finding GOEO Management stated that the table should have been filtered to reflect calendar year 2020 data and since they still have the data intact from that time, they have issued a revised 2022 annual report with the correct chart.

c. We determined whether GOEO had included a measure of the Program’s success in attracting new commercial projects in the GOEO Annual Reports for fiscal years 2022, 2021 and 2020.

Findings: GOEO included the total number of Recipients over the course of the Program in each of the Annual Reports for fiscal years 2022, 2021 and 2020.

d. We reviewed the GOEO website to determine whether current new tax credit commitments and economic benefits of those tax credit commitments had been published.

Findings: We reviewed the GOEO website in August 2023. Information regarding the number of new Program participants, estimated jobs, estimated new state revenues, new capital outlays, new state wages and the amount of new tax credit commitments were published for the 2023 fiscal year-to-date.

3. We validated the outstanding tax credit commitments reported by GOEO as included in the fiscal 2022 State of Utah Comprehensive Annual Financial Report (CAFR) Notes by performing the following procedures:

a. We obtained a copy of the fiscal 2022 CAFR and agreed the reported outstanding long-term contract commitments to the reconciliation used by GOEO to derive the amounts being reported.

Findings: The outstanding long-term contract commitments reported in the fiscal 2022 CAFR did not match the GOEO reconciliation of long-term contract commitments. The CAFR reported tax abatements of $902.21 million while tax abatements according to the GOEO reconciliation were $902.24 million. Tax rebates of $79.25 million reported in the 2022 CAFR agreed to the GOEO reconciliation. Management indicated that GOEO does not receive the final credits issued amounts from the Utah State Tax Commission to reconcile the numbers. Management also indicated that they have requested the Utah State Tax Commission to provide the needed information, but the information has not been forthcoming.

b. We randomly selected 20 of the 80 companies selected in procedure #1.a. and recalculated the maximum remaining tax credit available to the Recipient as of June 30, 2022.

Findings: There were no exceptions noted as a result of performing the procedure.

4. We inquired about and obtained copies of all written ethical, statutory, contractual, and procedural requirements applicable to administering the EDTIF program. We also inquired of Jim Grover, Managing Director of Incentives and Grants, Ryan Sparks, GOEO Executive Director, and Laraib Sial Compliance Director if they were aware of any noncompliance with any ethical, statutory, contractual and procedural requirements applicable to administering the EDTIF program.

Findings: 1) Ethical Requirements – Management provided us with the Utah Code Chapter 16 – Utah Public Officers' and Employees Ethics Act, the GOEO Code of Conduct, the Utah Administrative Code R477-9 – Employee Conduct, and Executive Order EO 002 2014: Establishing Policy for Executive Branch Agencies and Employees. We noted no instances of noncompliance as we performed these agreed-upon procedures. 2) Statutory Requirements – Management of GOEO referred us to Utah Code Title 63N Chapters 1 and 2. The statutory requirements included in these chapters were incorporated into procedures #1, #2 and #3 (see related findings above). 3) Contractual Requirements – These were incorporated into procedure #1 (see related findings above). 4) Procedural Requirements – Management provided us with the internal policies and procedures governing the Program. We noted no instances of noncompliance as we performed these agreed-upon procedures. 5) Jim Grover, Ryan Sparks and Laraib Sial were not aware of any noncompliance with any ethical requirements. They were also not aware of any noncompliance with statutory, contractual, and procedural requirements other than the matters included as findings in this report.

5. We analyzed the cost of the tax credits to the State of Utah including administration of the EDTIF program in comparison to the State of Utah's return on investment through new State of Utah revenue generated by the EDTIF program and

have provided information below to assist in determining whether or not the EDTIF program is meeting its statutory purpose and effectiveness measures. More specifically, we performed the following procedure:

a. We calculated the total return on investment (ROI) for fiscal years 2022, 2021, and 2020 by gathering information on new State of Utah revenues, administrative expenses, and the total decrease in tax revenues (tax credits) resulting from EDTIF tax incentives. We also calculated the percentage of new State of Utah revenues as compared to administrative expenses and Program tax credits.

   Findings:

   New State of Utah Revenues and Program Tax Credits/Cash Payments – We obtained new State of Utah revenues and Program Tax Credits/Cash Payments for the three most recent fiscal years from GOEO's fiscal 2022 Annual Report.

   Management of GOEO indicated that administrative expenses related to the Program included personnel costs, travel costs and current expenses. Further detail of these expenses is provided below.

   Personnel Expenses - We obtained personnel costs from management of GOEO. Management of GOEO determined the GOEO employees that worked in the Program during 2022, 2021, and 2020. Management then estimated the percentage of time each of these employees spent on the Program in relation to their total work time. The employees and the percentage of their work efforts devoted to the program as determined by management are as follows: Corporate Recruitment Director and Analyst – 100%, GOEO Compliance Personnel – 65%, Program Contract Manager - 50%, GOEO Deputy Director – 15%, GOEO Operations Managing Director – 3%, and GOEO Executive Director – 2%. The percentages were then multiplied by the employees' salary and benefits to arrive at in-house personnel costs. Finally, 50% of the cost of the services of an employee of the Utah State Attorney General's Office are added to the in-house personnel costs to arrive at total personnel costs utilized in the calculation of ROI.

   Current Expenses - These expenses are costs associated with using the Salesforce application and the services provided by The Economic Development Corporation of Utah. Salesforce is used to organize, generate, and store information in connection with the Program. Management has determined that the Program should be allocated 40% of total licensing and maintenance costs based on the utilization of Salesforce by the Program as compared to other GOEO programs. In addition, management determined that 80% of the cost of the services provided by the Economic Development Corporation of Utah (EDCU) should be allocated to the Program based on the utilization of EDCU by the Program in comparison to all other GOEO programs.

   Travel Expenses - Travel costs include expenses of three GOEO employees for recruiting new prospective companies to the Program and to attend conferences. Management indicated that most travel costs related to recruiting new prospective companies to the Program are incurred by EDCU whose costs to the Program are included in Current Expenses.

Calculated ROI (In Thousands)

	Reported/ Generated Fiscal 2022/2019	Reported/ Generated Fiscal 2021/2018	Reported/ Generated Fiscal 2020/2017
New State of Utah revenues	$ 70,784	$ 131,891	$ 106,767
Administrative expenses:			
Personnel	772	763	759
Current	846	846	846
Travel	10	10	10
Total administrative expenses	1,628	1,619	1,615
Program tax credits/cash payments	13,965	32,707	24,124
Calculated ROI	$ 55,191	$ 97,565	$ 81,028
New State of Utah revenues as a percentage of Program expenses and tax credits/rebates	454%	384%	415%

Other

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The procedures performed included the use of samples. The use of samples includes the possibility that the sample is not representative of the population, which could lead to findings that may not be representative of the population. We were not engaged to, and did not, conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on the records of the Program. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of GOEO and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

This report is intended solely for the information and use of the Advisory Board and management of GOEO and is not intended to be and should not be used by anyone other than these specified parties.

Tanner LLC

August 29, 2023