Texas Enterprise Fund

The Issue

Texas's low-tax, low-regulatory model has long attracted businesses from other states as well as a highly skilled labor force. Nevertheless, some in government worry that Texas will be unable to compete with its sister states unless the government takes a more proactive approach and offers an incentive package for businesses willing to relocate.

The Texas Enterprise Fund (TEF) is one such program. Established in 2003, the TEF provides cash grants to business projects that promise a significant amount of high-income job creation and capital investment. Often called a "deal closer," the fund awards grants only when "a single Texas site is competing with another viable out-of-state option." The overarching goal is to ensure that Texas does not lose its competitive edge, should another state offer an incentive package of its own.

Texans frequently jibe that "everything is bigger" in their state. With respect to corporate subsidies, this is unfortunately true. The Texas state government touts on its website that the TEF is the largest deal-closing program in the nation, allocating well over $600 million in aggregate since its creation. The awards vary in size. Maverick Arms received a $75,000 grant in 2014, while the Professional Golfers' Association of America was offered $1,500,000 in 2018. The state employs an analytical model uniformly to each applicant, which takes into account the number of jobs to be created, the project's expected timeframe, and average wages to be conferred before determining an appropriate amount. The state assures that, through this formula, Texans will see a full return on their investment.

Because of the amount of money involved, the TEF has multiple other mechanisms in place to safeguard taxpayer funds. Applicants must have significant local support from the prospective Texas community, for example, which is demonstrated in the form of local economic incentive offers. Applicants must show that they are a well-established and financially sound enterprise, operating in a mature industry that could potentially locate to another state or country. In addition, the final decision is left to the governor, lieutenant governor, and speaker of the Texas House. All three must unanimously approve of a project before it secures funding.

The final mechanism is not a precondition. Instead, it is the power the state retains after the project is approved. The contract signed by the company and the state creates a legal obligation for the company to fulfill its job target. Non-compliance entitles the state to claim damages as laid out in the agreement. This procedure is referred to as "clawback" and is designed to indemnify the taxpayer against a bad investment, while still rewarding the company for what verified job creation it managed to stir. After a 2014 audit pointed out serious flaws in the monitoring of job target completion, the TEF started disbursing the money only after agreed-upon performance targets are reached.

In light of the clawback process and its other safeguards, the TEF is often cited by its supporters as an exemplar for others to follow—a corporate incentives program done right. They agree that the Texas Model has made the state an attractive site to do business but argue that other states could bridge the gap by offering a monetary inducement. The TEF, they assert, allows Texas to level the playing field in a targeted and controlled manner with little risk to the taxpayer. As evidence, supporters cite the number of jobs created: 87,948 as of December 2018.

In September 2014, however, the State Auditor's Office released a report that raised numerous questions as to the TEF's management and the standards used to determine awards. The report noted that many early recipients never submitted a formal application but obtained sizable grants nonetheless. The 2014 audit also observed that because of insufficient documentation and monitoring, "it was not always possible to determine whether award decisions were supported, or to determine the number of jobs that recipients of awards from the Texas Enterprise Fund have created."

Critics correctly argued that the procedural changes recommended by the State Auditor's Office would not be enough to overcome the inefficiencies incumbent to the program. Fast forward to 2019: a study found that, unknown to the general public, a number of agreements have been amended. The renegotiations of TEF agreements, generally to the benefit of businesses, include extending the deadline upon which a company has previously agreed to fulfill its job target, reducing the total number of jobs the firm committed to create, or changing the definition of what a created job is. The authors of the study faced some resistance from businesses to share information through public records requests, especially, it appeared, when a contract had been amended. This preliminary finding raises important transparency issues regarding the objective benefits of the program.

By its very nature, the TEF must pick winners and losers. It must decide who deserves public investment and who does not. Established companies will always have a step up in navigating that process.

Business incentives supporters argue that since the board is rigged, Texas must follow suit if it is to compete with other states. But when there is no upper limit, when each subsidy justifies the next, shouldn't lawmakers take a step back? The interstate subsidy race represents an ever-spiraling stairway to more government intervention in the market. The solution is to step off and focus on the mechanism proven to create the most growth without extra cost to the taxpayer: the Texas Model.

continued

The Facts

- More than $600 million of taxpayer money has been awarded to businesses since the creation of the TEF in 2003.
- The total number of committed direct jobs and total committed capital investment, as of April 2020, was 103,202 and $33.5 billion, respectively.
- As of April 30, 2020, the TEF allocated $678.5 million and disbursed $522.5 million in grants, while it recovered nearly $31 million in liquidated damages (clawbacks) and nearly $49 million in other repayments. The available balance for fiscal year 2020-21 is $187,169,519.
- A 2019 Washington Center for Equitable Growth study found that several companies have renegotiated their agreements, sometimes right before they would have been subject to clawbacks. Even though decreasing a commitment made usually meant decreasing the related TEF grant, these amendments are not made public, leaving taxpayers in the dark regarding the objective benefits of the program.

Recommendation

Eliminate the Texas Enterprise Fund.

Resources

Spotlight: The Texas Enterprise Fund by Bill Peacock and Cody Ross, the Texas Public Policy Foundation (Dec. 2015).

An Audit Report on the Texas Enterprise Fund at the Office of the Governor, Report No. 15-003, State Auditor's Office (Sept. 2014).

Texas Enterprise Fund: 2019 Legislative Report, Economic Development and Tourism, Office of the Governor (Dec. 2018).

"Texas Enterprise Fund (TEF) Awarded Projects as of April 30, 2020," Economic Development and Tourism, Office of the Governor (April 2020).

Who's Afraid of Sunlight? Explaining Opposition to Transparency in Economic Development by Nathan M. Jensen and Calvin Thrall, Washington Center for Equitable Growth (Feb. 2019).