KEDFA does not operate in secret

By Donna Duncan

It comes as no surprise that after more than nine months of "investigative reporting," *Lexington Herald-Leader* reporters still do not get the facts straight and have to rely on alternative, and likely unverified, sources to make their story.

The Herald-Leader's November 6, 2005 series of articles about the Cabinet for Economic Development, and financial incentives used to attract business investment and create jobs within the commonwealth, leaves its readership with the wrong impressions about how state incentives are used, and how the companies receiving them are monitored. The articles, as well as the MACED report that is extensively cited, lump all business-oriented programs and tax credits together, and then make broad statements regarding them. There is a significant difference between oversight given to the programs administered by the Cabinet for Economic Development and a general tax credit established within the revenue code, available to anyone eligible to take it. Further, the article leaves an impression with readers that grand sums of taxpayer dollars are doled out to companies, when in fact, the majority of our programs are performance based.

The tax incentives programs, which are established by Kentucky Revised Statutes, do not give away dollars to companies. A company that is approved for one of these programs must earn the incentives through job creation and investment over an extended number of years on the specific project for which it is induced. Its ability to take incentives under one of these programs is directly dependent upon its investment, future period earnings on the new project,s and new jobs created and maintained. The Cabinet does monitor the agreements entered into with companies receiving incentives. Each program has requirements with which companies must comply to stay in the program and be eligible for the tax credits.

Once a company receives final approval for its financial incentives project from the Kentucky Economic Development Finance Authority (KEDFA), a file is established to ensure all required documents are obtained through the life of the project. KEDFA and the company enter into a legal agreement that sets forth the program requirements, and each party's responsibilities. We contact company officials to ensure they understand the program requirements, including reporting requirements, and answer any questions they company may have. We notify the Department of Revenue hen projects are approved so the appropriate tax documents can be sent to the company.

Throughout the agreement term of each agreement, we review the company's required annual, and sometimes more frequent, exhibits submitted by the company to determine whether it is in compliance, and work with company officials to resolve issues that arise. For fiscal year ending June 30, 2005, we conducted 96 facility site visits, where we tested information submitted to us, performed in-depth monitoring of over 900 projects, and logged more than 1,800 phone calls and other contacts with induced companies receiving inducements. Companies that fail to meet the requirements of the agreements may be declared in default, and suspended or removed from program participation.

The Cabinet prepares quarterly reports to the Department of Revenue providing the amount of approved cost the company has earned under which it may claim tax credits and wage assessments. We also share information with the Department of Revenue regarding specific compliance issues. If a company claims tax credits for which it is not entitled, it will be billed by the Department of Revenue, complete with interest and penalties as appropriate.

The cash based programs, such as the Economic Development Bonds and the KEDFA direct loan program, have penalty provisions if the recipients fail to create the number of jobs promised. Companies receiving incentives under these programs are monitored for compliance with their agreements, similarly to that described above. These companies are monitored as well, and we expect them to abide by their commitments, or repay the grant or loan as set out in the agreements.

Last, the notion that this Cabinet has little or no oversight and operates in secrecy is just wrong. KEDFA, which is the authority that oversees the majority of the financial incentive programs offered by the state, is subject to scrutiny by the Auditor of Public Accounts and the Legislature, each of whom has conducted reviews in the past, and we willingly provided them with information requested. Additionally, we provide the Legislative Research Commission (LRC) with materials and background information regarding each project to be submitted to KEDFA prior to each meeting, and make quarterly and annual reports to that body as required. The authority's meetings are open to the public and frequently attended by LRC staff, media, and other interested parties. KEDFA also receives an annual independent audit in which the accuracy of financial reporting and compliance with law is tested. KEDFA routinely receives independent audit reports that render unqualified opinions on its financial statements, with no material weaknesses in internal controls noted. KEDFA recently received its audit for fiscal year ending June 30, 2005, which was conducted by a private accounting firm, with oversight and approval from the Auditor of Public Accounts. That report again rendered an unqualified opinion and did not disclose any exceptions, even minor ones. This is a testament to the fact that we are good stewards of the funds we oversee and the programs we administer.

As a citizen and a taxpayer, I greatly respect your readers' right to know what their government is doing. As a civil servant, I want to see balanced and accurate reporting on the role and actions taken by government. We take our jobs very seriously and believe that Kentuckians are getting a good deal through the work performed by the Cabinet for Economic Development. Companies today are very cost conscious, and incentives offered to new and expanding business are a necessary component to economic development, job growth, and prosperity.

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