



domindom

Testimony of Reinvent Albany
JOINT COMMITTEE ON ECONOMIC DEVELOPMENT,
Albany, New York
February 1, 2017

Good afternoon, I am John Kaehny, Executive Director of Reinvent Albany. We are a non-profit watchdog group that advocates for more open and accountable New York State government. We are also part of the Clean Contracting coalition of leading transparency and budget watchdog groups that formed after last October's arrests of nine people for allegedly rigging over \$800 million in state economic development contracts.

I appreciate the opportunity to testify, and I encourage the senators and assembly members here to hold far more oversight hearings on economic development spending. To that end, thank you Chairman Schimminger for last August's hearing. Your legislative oversight matters, it is crucial to creating a culture of accountability and transparency. You cannot sit back and write a check for \$1.6B and expect everything to work out --- it won't.

Oversight of economic development subsidies fall into roughly two areas: accountability and effectiveness. In other words, does the legislature and public know how economic development funds are being spent, and whether they are being awarded fairly and cleanly? Second, is the public getting a good return on their economic development investments. Given the historic bid rigging scandal revealed in October, my testimony will focus on accountability and transparency.

There is a huge elephant in the room. After last October's bid rigging arrests, U.S. Attorney Preet Bharara repeatedly emphasized that the state's economic development contracting suffered from major "systemic problems." What he meant is that the bid rigging happened because the system for awarding economic development awards and contracts lacks basic safeguards and independent oversight and is ripe for manipulation, pay to play, favoritism, corruption and abuse --- and that remains true today.

The elephant in the room is that just three months after federal arrests for the biggest bid rigging scandal of any kind in state history, the legislature is being asked by the governor to approve \$1.6B in discretionary economic development spending before basic, systemic, reforms are adopted. This is impressively bold since most of the nine-people arrested were either high ranking current or former aides to the governor or among his biggest political contributors.

The people who wrote the state constitution created the State Comptroller to provide independent oversight of state spending. They did not believe that the governor or any agency is good at overseeing themselves --- especially when it comes to huge sums of money.

Yesterday, we joined with other watchdog groups in calling on you, the legislature, to refuse to approve the business subsidies in the budget until, as a minimum first step, the Comptroller is granted full independent oversight powers over all state contracting. Independent oversight of state contracts is the single most important reform the legislature can adopt this session. The hallmark of clean government is transparency, robust independent oversight and rules to reduce conflict of interest and influence peddling. The key word here is "independent." Independent auditors are not hired by the people they are overseeing and do not fear retaliation for rejecting a flawed contract or revealing misconduct.

Independent contracting oversight is just a start. Prominent watchdog groups, including Citizens Budget Commission, Citizens Union, Common Cause NY, Fiscal Policy

Institute, League of Women Voters, NYPIRG and Reinvent Albany have detailed five basic reforms we believe are needed to restore accountability to state economic spending.

1. Require competitive and transparent contracting for the award of state funds by all state agencies, authorities, SUNY, and all state affiliates and entities. (Use existing agency procurement guidelines as a uniform minimum standard.)
2. Transfer responsibility for awarding all economic development awards to ESDC and end awards by state non-profits and SUNY.
3. Empower the comptroller to review and approve all state contracts over \$250k.
4. Prohibit state authorities, state corporations, and state non-profits from doing business with their board members.
5. Create a 'Database of Deals' that allows the public to see the total value of all forms of subsidies awarded to a business – as six states have done.

Additionally, the groups would like the legislature to work with the governor, comptroller and attorney general on legislation reduce the potential for conflicts of interest by exploring options to limit campaign contributions from anyone who has or is seeking a state contract. Nineteen states and NYC have such “pay to play” laws, NY State does not.

We believe the legislature should be answer these basic questions before approving the governor’s very large appropriation request for economic development spending.

- Is there independent oversight and Clean Contracting rules in place to help ensure funds are awarded cleanly and fairly?
- Do we know exactly what the money is being spent on?
- Do we know if the public is getting their money’s worth? What would the same public investment in traditional infrastructure buy?
- If a subsidized project fails, can the public get some of its investment back?

- What is the definition of job? And is it possible to do an apple to apple comparison of the cost per job across different economic development programs?

We already touched on the independent oversight and Clean Contracting. Let's move quickly through these other points.

Without a “database of deals, no one outside the executive knows exactly who is getting what, from where and how much.

In six other states, the executive publishes a “Database of Deals” that lists details for all state funded economic development projects, including the total amount and all sources of subsidies, including direct funding, in-kind funding (like a free factory) and tax abatements. Many businesses receive subsidies from multiple sources of funding and multiple state entities, including ESDC, SUNY, State authorities, SUNY non-profits, state agencies and state public private partnerships. These entities have different legal status, governance, reporting requirements and procurement policies.

The State should establish benchmarks and analysis of cost and benefits and alternatives.

The state does not have a benchmark to compare economic development subsidies to investments in traditional public infrastructure like road or bridge paving or replacing water pipes. Because of this, there is no basis for comparing what a \$200m state subsidy would buy if invested in other ways. There is no basic benefit/cost analysis. Economic development projects are presented without an alternatives analysis that presents different options for public investments. Instead economic development projects are presented as “Do this or get nothing.” This is irrational. The legislature should be asking whether a \$638m computer chip factory in Utica is the best way to spur economic growth in the Mohawk Valley. What alternatives have been considered? Are there investments in public infrastructure, state payments of local debts or other spending that would create more jobs? We don't know because it has not been looked at.

The legislature should know whether subsidized programs have met their contractual targets or whether the executive is “clawing back” funds from

programs that are not performing. There is no list or database of clawbacks or status of job creation or other performance targets. In other words, the legislature does not know what businesses have promised to do in return for state funding, it does not know if the executive is holding a business to its contractual promise --- usually to create a certain number of jobs --- and it does not know how much (if any) in public funds the executive has “clawed back” from failed subsidy deals.

There is no uniform definition of “job” allowing for apples to apples comparisons. State law does not define what a “job” is for the sake of state expenditures. Different state economic development programs what a job is in different ways. This makes apple to apple comparisons between public investments difficult. For instance, one project may employ 1,000 people for one year and another may employ 500 people for five years. Let’s say each project got \$100m in state funding. Which created more jobs? You could say that it’s the five-year project because $500 \times 5 \text{ years} = 2,500 \text{ job years}$ versus $1,000 \times 1 \text{ year} = 1,000 \text{ job years}$. But the state does not do this kind of analysis or have common metrics for comparing projects and determining Return on Investment.

Conclusion

“Economic development” is one of the fastest growing parts of the state budget, yet it is also the most fragmented, ill defined, opaque, unaccountable and scandal plagued. At the very least you and your colleagues on the legislature should not appropriate funds for economic development until the most basic reforms are adopted first.

We suggest you take a close look at the Comptroller’s program bills, which are reasonable. And, at a very least we ask that you empower the comptroller to review and approve all state contracts over \$250k, including contracts by state agencies, authorities, SUNY, SUNY non-profits and all other state controlled entities.

Thank you.

