

Internal Audit Report



**Economic Development
Incentives Tracking**



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Auditor's Conclusion

May 6, 2021

Internal Audit has completed the Economic Development Incentives Tracking engagement. We conducted this engagement at the request of the Management and Finance Committee.

The audit objectives were:

- Determine whether Planning and Development Services' processes for tracking active economic development jobs incentives are effective.
- Determine whether the Planning and Development Services' workbook for tracking active economic development jobs incentives is accurate.

To these ends, Internal Audit:

- Interviewed staff,
- Reviewed processes,
- Compared the tracking data to the agreements,
- Recalculated tracking workbook formulas for accuracy,
- Compared workbook progress data to submitted compliance reports,
- And employed other methods as needed.

Based on our engagement procedures, we conclude that the processes for tracking incentives are ineffective, and the workbook for tracking active economic development jobs incentives is inaccurate and incomplete.

We also conclude that a lack of documented policies and procedures governing the program and the absence of clear and comprehensively defined roles, responsibilities, and expectations for Planning and Development, City Council, and the Aurora Economic Development Council contributed to these issues noted above. These must be addressed going forward.

We have detailed the issues and our recommendations in subsequent sections of this report. We acknowledge the cooperativeness of the Development Services Manager, Project Manager, along with Vice President of the Aurora Economic Development Council.



Wayne C. Sommer, CPA, CGMA
Internal Audit Manager

Audit Profile

Audit Team

Wayne Sommer, CPA, CGMA – Internal Audit Manager

Sheree Van Buren, CIA –Supervising Auditor

Michelle Crawford, M.Acct, CIA, CFE, CRMA –Lead Auditor

Background

This audit focused on economic incentives paid under Section 130-298 of the City's Sales and Use Tax Ordinance. The City's Primary Job Creation and Retention Incentives policy¹ documents the program's intent. We have included the purpose, eligibility, and assistance sections from the policy below.

Purpose: The City is authorized to provide economic development incentives under Section 130-298 of the city's Sales and Use Tax Ordinance. These types of incentives are used to attract or retain employers within the City and create or retain primary jobs. A primary job is one in which 50% or more of the product or service produced by the job is exported outside of the regional economy. Creation and retention of these types of jobs increase income in the local economy which can be spent on local goods and services and produce tax revenues for the City.

ELIGIBLE PROJECTS: Projects considered for incentives must create or retain primary jobs within the City. Examples of the City's targeted primary industries include bioscience, aerospace and defense, renewable energy, and transportation logistics. The project must be considering alternative locations outside the city.

ASSISTANCE: All incentives are performance-based. Qualified businesses may receive a partial rebate of net new sales and use taxes on eligible construction materials and equipment over a defined number of years. Only a partial rebate of these taxes is given to assure that the City will receive some net new tax dollars to help pay for City services. Incentives are provided at the sole discretion of City Council and are subject to approval by the Aurora City Council at a public meeting.

The economic development incentive program provides both rebates and waivers of sales and use taxes to businesses that create primary jobs. The agreements with businesses include requirements for the creation of a certain number of jobs, which varies by agreement.

The Planning and Development Services Department (PDS) administers the program. The Aurora Economic Development Council (AEDC) serves as a liaison and primary

¹ The full document is included in Appendix A.

contact between the City and businesses. Per the AEDC contract with the City (as of 2018), AEDC is responsible for tracking the compliance obligations for companies receiving incentives recommended by AEDC to City Council. A process map of the incentives process is included in Appendix B.

The Development Services Division of PDS is responsible for the administration of the incentives program. Based on the PDS worksheet, below are statistics for active and inactive agreements:

Data as of 12/31/2020	Active Agreements	Inactive Agreements	Totals
Number of agreements	17	2	19
Value of agreements	\$19,484,804.00	\$3,505,500.00	\$22,990,304.00
Rebates Paid	\$395,855.88	\$0	\$395,855.88
Waivers Paid	\$406,013.84	\$0	\$406,013.84

The City has paid 3% of the total value of agreements via rebates and waivers.

Scope

Our work scope covered all active economic development jobs incentives agreements between July 1, 2019, and June 30, 2020.

Milestone Reports

Milestone 1 Engagement Letter
 Milestone 2 Client Evaluation
 Milestone 3 Process Controls and Efficiency
 Milestone 4 Risks
 Milestone 5 Revised Engagement Letter (if issued)
 Test work

Issued Date

July 23, 2020
 December 16, 2020
 December 16, 2020
 December 16, 2020
 None issued
 May 6, 2021



Milestone 2 Report
Economic Development Incentives Tracking

December 16, 2020

BACKGROUND

In Milestone 2, we gain a deeper understanding of the client's operating environment and client issues that may affect the engagement objectives, and that may influence subsequent engagement procedures. We accomplish this by reviewing policies, procedures, and performance measures.

PROCEDURES	CONCLUSIONS
• Review policies and procedures	There is only one policy relating to the economic development jobs incentives program—the job creation policy—and it does not address all aspects of the program or leading practices.
• Review performance measures	There are no performance measures for the overall economic development jobs incentives program.

Issue Details

ISS.1 – Policies lack some leading practices

Planning and Development Services lacks complete written policies and procedures governing economic incentives for jobs.

The only documented policy for economic incentives for jobs is the *Primary Job Creation and Retention Incentives Policy* (the Policy.) It is an overarching document that details the purpose, eligible projects, assistance, additional considerations, and examples of performance standards. Various other documents address requirements and responsibilities. We reviewed leading practices and compared them to the Policy and various agreements. We identified several areas where leading practices are not followed.

The Government Finance Officers Association (GFOA) best practice guide *Establishing an Economic Development Incentive Policy*² identifies elements that an incentive policy should include. The GFOA also recognized steps to ensure effective administration of development agreements.³ Below is our comparison of the GFOA's best practices to the Policy and agreements.

Agreements with the Aurora Economic Development Council (AEDC) and businesses receiving incentives include information related to performance standards, compliance, and monitoring.

² <https://www.gfoa.org/materials/establishing-an-economic-development-incentive-policy>

³ <https://www.gfoa.org/materials/administering-economic-development-agreements>

GFOA Leading Practice	How Policy and agreements meets or does not meet leading practice	Compliance status
<u>Goals and Objectives of Economic Development</u> —An incentive policy should include goals and measurable objectives to create context and accountability for the use of incentives.	The Policy documents the goal of attracting or retaining employers within the City and creating or retaining primary jobs.	Complies with leading practices.
<u>Financial Incentive Tools and Limitations</u> —An incentive policy should define the types of incentives, any limitations on their use, and identify the funding sources.	Policy addresses the type of incentives (partial rebate of sales and use taxes on eligible construction and equipment), use of the incentives for creation or retention of primary jobs ⁴ , and funding sources (sales and use taxes.)	Complies with leading practices.
<u>Evaluation Process</u> —An incentive policy should outline a clearly defined evaluation process, including: <ul style="list-style-type: none"> • how a proposal measures up to criteria, • comparison of the cost of the incentive against the benefits, • evaluation of the impact on the tax base and revenue, • analysis of the impact of a project on existing businesses, • determination if the project would proceed if the incentive were not provided, and • a list of required documentation for the application and the members of the review team. 	The Policy does not address evaluation processes outside of City Council approval at a public meeting. A Policy detailing the minimum criteria used to evaluate incentives creates a consistent process and comparison basis for setting future incentives.	Does not comply with leading practices.

⁴ Policy defines primary job as one in which 50% or more of the product or service produced by the job is exported outside of the regional economy.

GFOA Leading Practice	How Policy and agreements meets or does not meet leading practice	Compliance status
<p><u>Performance Standards</u>—An incentive policy should require specific performance standards, remedies if standards are not achieved, and the ability to recover the cost if the financial benefits do not materialize.</p>	<p>The Policy refers to frequently included standards in agreements, including specific performance standards, payment of incentives, and penalties or claw-backs if standards are not met.</p> <p>While business agreements appear to address performance standards, there are no written procedures for claw-backs of payments. There are also no requirements for a higher-level of approval from the Development Services Manager or Planning Director.</p> <p>The Policy addresses performance standards but lacks details related to claw-back processes.</p> <p>The current AEDC agreement requires quarterly performance reports regarding the creation of primary jobs through Development Services; however, the City lacks performance measures for the jobs incentives program to determine its success and benefit to the City.</p>	<p>Partially complies with leading practices.</p>

GFOA Leading Practice	How Policy and agreements meets or does not meet leading practice	Compliance status
<p><u>Monitoring and Compliance</u>—An incentive policy should include the process for monitoring and compliance, including:</p> <ul style="list-style-type: none"> • regular monitoring, • identifying responsibility for monitoring and compliance, • reviewing performance standards, • determining if goals are achieved, and • identifying when the governing board receives status updates. 	<p>While the agreement with AEDC states that AEDC will track compliance obligations for employers receiving economic development agreements from Aurora facilitated by AEDC, the City’s Policy and other agreements do <u>not</u> address monitoring and compliance procedures; do not clearly identify who is responsible for monitoring and compliance; nor do they include processes for regular updates.</p>	<p>Does not comply with leading practices.</p>
<p><u>Monitoring Deviations from the Agreement</u>—Effective administration of incentive programs includes processes to detect deviations or timely noncompliance.</p>	<p>The Policy, agreements, and processes do not address monitoring for deviations or processes to detect noncompliance.</p>	<p>Does not comply with leading practices.</p>
<p><u>Staff Capacity</u>—Effective administration of incentive programs includes identifying the staff capacity required to monitor agreements properly.</p>	<p>The Policy does not identify staff responsible for monitoring to ensure the needed capacity is met. While the AEDC agreement notes they will track compliance for agreements they facilitate, there are no City processes to ensure that the capacity for monitoring is adequate. The processes do not address staff capacity.</p>	<p>Does not comply with leading practices.</p>
<p><u>Conclusion of Agreement</u>—Effective administration of incentive programs includes ensuring a final resolution to outstanding items.</p>	<p>The processes do not address procedures for the agreement's conclusion.</p>	<p>Does not comply with leading practices.</p>

The National State Auditors Association identified leading practices in carrying out economic development efforts.⁵ Management Analysis and Reporting includes processes that management should apply on a periodic basis such as:

- Evaluation of the extent of staff compliance with policies and procedures. The Policy does not address this and is not in compliance with this leading practice.
- Reliability of program data. The Policy and agreements do not address the evaluation of the reliability of data and are not in compliance with this leading practice.
- Evaluation of the efficiency of programs. The Policy and agreements do not address this evaluation and are not in compliance with this leading practice.

⁵https://www.nasact.org/files/News_and_Publications/White_Papers_Reports/NSAA%20Best%20Practices%20Documents/2004_Economic_Development.pdf

A *Policy* is a direct link between an organization's *Vision* and its day-to-day operations. Policies identify the key activities and provide a general strategy to decision-makers to handle issues as they arise. This is accomplished by providing limits and alternatives that can be used to guide the decision-making process for overcoming problems.

Procedures provide a clear, required, and easily understood plan of action for implementing a policy. A well-written procedure will help eliminate common misunderstandings by identifying responsibilities and establishing boundaries for those charged with execution. Good procedures allow managers to control events in advance and prevent the organization (and employees) from making costly mistakes.⁶

Recommendation

We recommend Planning and Development Services develop written policies and procedures for the jobs incentive program and address missing leading practices identified within our audit. Procedures should include performance measures for all aspects of the job incentives program.

Management Response

The Development Services Division will work with the Aurora Economic Development Council (AEDC) to incorporate missing evaluation procedures and performance measures within the contract between the City and AEDC. The division will also work with the City Council to determine the additional policy guidelines that they would like included within the policy guidelines.

Estimated Implementation Date: September 1, 2021

Issue Owner: Development Services Manager

Issue Final Approver: Planning Director

⁶ <http://www.pcg-services.com/are-your-policies-and-procedures-a-barrier-to-growing-yourcompany/>



Milestone 3 Report
Economic Development Incentives Tracking

December 16, 2020

Internal Controls

In Milestone 3, we determine whether appropriate process controls exist for key processes and whether processes are efficient. We accomplish this by flowcharting and performing walkthroughs of critical processes and identifying missing controls and process inefficiencies.

PROCEDURES	CONCLUSIONS
<ul style="list-style-type: none">• Flowchart critical processes and evaluate for missing or weak internal controls, efficiency issues, and IT-related issues.	Controls are missing from critical processes. We have included recommendations below.
<ul style="list-style-type: none">• Determine any impact on test work procedures.	There is no impact on test work procedures.

Issue Details

ISS.2 – Missing Monitoring Procedures and Controls

There are no documented monitoring procedures, and the current process lacks controls. Per the agreement with the City, the Aurora Economic Development Council (AEDC) is responsible for tracking compliance by businesses with which they facilitated agreements for the City. The City has not included requirements outlining what constitutes tracking. Development Services is responsible for monitoring AEDC's compliance with its contract with the City. Development Services lacks methods for monitoring AEDC for compliance.

AEDC reviews the businesses' supporting documentation and, for newer agreements, certifies the accuracy of information. While the business agreements outline the process for on-site reviews, there is no current procedure to ensure reviews occur.

Without clear instructions and guidance, tracking and monitoring may not be adequate. The lack of guidance and procedures increases the risk that the City pays incentives to businesses that did not meet the requirements.

Recommendation

We recommend Development Services create a checklist or form to document their reviews of AEDC's compliance with their agreement. Additionally, Development Services should work with AEDC to create a checklist for monitoring business requirements, including a minimum number of site visits over the agreement term.

Management Response

Development Services will work with AEDC to create a form to document their review of compliance with their agreement. Development Services will work with AEDC to create a checklist for monitoring each business based upon the specific requirements and will require a minimum number of site visits over the agreement term.

Estimated Implementation Date: September 1, 2021

Issue Owner: Development Services Manager

Issue Final Approver: Planning Director



Milestone 4 Report
Economic Development Incentives Tracking

December 16, 2020

Risk

In Milestone 4, we assess the impact of identified risks on the engagement objectives, scope, and planned test work procedures. We accomplish this by discussing risk in critical areas with the client and comparing it to leading practices.

PROCEDURES	CONCLUSIONS
<ul style="list-style-type: none">Assess IT Risk	No IT risks identified
<ul style="list-style-type: none">Assess Governance Risk	We did not consider a review of governance risk to be necessary given the limited engagement objectives.
<ul style="list-style-type: none">Assess Fraud Risk	We did not identify any additional fraud risks or other general risks that would impact the planned audit objectives or test work procedures.



Test Work Report
Economic Development Incentives Tracking

May 6, 2021

Objectives Test Work

During test work, we seek to obtain sufficient competent evidential matter to afford a reasonable basis for conclusions on the engagement objectives. We accomplish this by performing tests, data analysis, and any other means necessary.

Objectives	CONCLUSIONS
Determine if the Development Services' workbook tracking active economic development jobs incentives is accurate.	Information contained within the Development Services workbook was inaccurate or outdated for some agreements. See recommendations below.
Determine if Development Services' processes for tracking active economic development jobs incentives are effective.	The Development Services' tracking process currently in place is not effective. Development Services' lacks procedures for tracking incentives and ensuring compliance with agreements. See recommendations below.

Issue Details

Findings and recommendations relating to policies and procedures were included in Milestones 2 and 3.

ISS.3 –Management of the waiver process lacked sufficient care and attention

The process to account for sales and use taxes waived at the time of payment is insufficient. For this incentive program, the City either waives the sales and use tax when the taxes are paid at the permit center or pays a rebate back to the business following the City's financial process. The City did not track the waivers at the permit counter⁷ in any software system.

We attempted to reconcile the waiver amounts listed in the Planning and Development Services (PDS) tracking sheet to waiver forms, reconciliations from Tax and Licensing, or permit section documentation. We were unable to reconcile the waiver amounts due to inadequate documentation.

For three businesses that received waivers, PDS was unable to provide any documentation supporting the waiver amounts. For another business, the documentation provided had waiver amounts that differed across the documentation. Altogether, the documentation was inadequate or nonexistent for \$398,941.22 in waivers reviewed.

Business and agreement date	Total waivers adequately documented	Total waivers lacking adequate documentation	Comments
Business 1, 10-22-12	\$0	\$1,817.00	PDS had no supporting documentation for the waiver. The business also received a rebate.
Business 3, 3-21-12	\$46.87	\$3,414.20	PDS had no supporting documentation for a portion of the waiver.
Business 4, 3-7-12	\$0	\$111,231.00	PDS had no supporting documentation for the waiver. The business also received a rebate.
Business 6, 3-28-12	\$0	\$282,479.02 ⁸	Support for waiver was inadequate. The amount of the waivers is approximate due to conflicting information. Business also received a rebate.

⁷ The permit counter is staffed and managed by the Building Inspection Division in Public Works.

⁸ This waiver amount is approximate as the documentation provided showed different amounts as follows: \$292,497.33, \$282,479.02, and \$289,504.88. We used the amount that Planning believed was most accurate.

Per Planning and Development Services, the sales and use tax waivers were typically issued at the beginning of the business's building construction, prior to full business operations. As a result, companies did not always meet job requirements at the time of the waiver.

Without adequate documentation supporting how much in taxes the City waived, we cannot ensure that waived amounts followed agreements. Additionally, if the City decided to claw back payments, the amount waived would be needed to calculate the clawback payment required.

Recommendation

We recommend the City discontinue waiving taxes at the point when business taxes are paid. Waivers could resume when the City can effectively track waivers of taxes within a software system and has procedures to ensure businesses met contractual requirements before waiving taxes.

Management Response

PDS concurs with this recommendation. Staff has communicated to AEDC that waivers make it difficult to enforce provisions of the agreement. As a matter of practice for the last several years, AEDC has not offered waivers as they have negotiated with companies seeking incentives. Staff will work to update policies to remove waivers from incentives.

Estimated Implementation Date: July 1, 2021

Issue Owner: Development Services Manager

Issue Final Approver: Planning and Development Services Director

ISS.4 - Non-compliance with agreements

The business agreements include requirements for supporting documentation and compliance reports for incentive payments. Planning and Development Services (PDS) provided us with their supporting documentation and compliance reports for active agreements with payments/waivers. The supporting documentation was inadequate, and compliance reports were not received from the incentivized businesses or were missing elements.

As noted in Milestone 3, PDS lacks documented procedures for monitoring agreements and details of the Aurora Economic Development Council's monitoring responsibilities.

We reviewed the support for compliance with the agreement and documented a summary and details below.

Business	Jobs requirement met?	City made payment by time frame?	Adequate supporting documentation for payment(s)?	Compliance report(s) received annually?	Compliance report(s) included all required elements?	Auditor Comments
1	No	Yes	Yes	No	No	PDS provided adequate documentation for the rebate payment. Still, PDS provided no documentation for the \$1,817 in waived taxes (amount per PDS tracking spreadsheet). PDS provided no compliance reports.
2	Yes	Yes	Yes	Yes	Yes	AEDC performed the monitoring for this business. PDS provided us an email from the Aurora Economic Development Council requesting the City to make payment to the business. AEDC shared the documentation and compliance reports they received with us, which were adequate and complete.

Business	Jobs requirement met?	City made payment by time frame?	Adequate supporting documentation for payment(s)?	Compliance report(s) received annually?	Compliance report(s) included all required elements?	Auditor Comments
3	Yes	N/A	No	No	No	The City waived taxes of \$46.87 in 2012; PDS provided adequate documentation for this waiver. PDS provided no documentation for additional waivers totaling \$3,461.07 (amount per the PDS tracking spreadsheet.) The compliance report for 2012 addressed all required areas. PDS provided no further compliance reports.
4	Yes	Yes	Yes	No	No	PDS provided adequate documentation for the rebate paid. Compliance reports for 2014-2017 were not complete, and PDS provided no compliance reports for 2018-2019.

Business	Jobs requirement met?	City made payment by time frame?	Adequate supporting documentation for payment(s)?	Compliance report(s) received annually?	Compliance report(s) included all required elements?	Auditor Comments
5	Yes	No	Yes	Yes	No	PDS provided adequate documentation for the rebate paid. The City did not make the payment within the 30 days as required by the agreement. Compliance reports were missing elements.

Business	Jobs requirement met?	City made payment by time frame?	Adequate supporting documentation for payment(s)?	Compliance report(s) received annually?	Compliance report(s) included all required elements?	Auditor Comments
6	No	No	No	No	No	<p>PDS provided inadequate documentation for waivers and rebates paid to the business. Compliance reports for 2015 and 2019 were missing. Compliance reports for 2016-2018 were missing elements. This business never met their job requirements but received over \$300,000 in rebates and waivers. We cannot verify the exact dollar amount of waivers received due to a lack of supporting documentation and conflicting documentation. PDS acknowledged that the business did not meet the required job numbers in the provided documents, but a rebate was still approved.</p>

Without documented procedures for monitoring, including criteria, the process is inconsistent, and non-compliance can occur. Also, the City issued waivers and a rebate payment to at least one business that never met its job requirements.

Recommendation

We recommend Planning and Development Services complies with its responsibilities in agreements and ensures that businesses are complying with theirs⁹.

Management Response

PDS concurs with the recommendation provided in the audit. Policies will be revised to provide clear guidance on performance measures that must be met for incentive payments to be remitted. Additionally, clearer responsibilities are needed within the professional services agreement between the City and AEDC, and future agreements will reflect those clarified responsibilities. Going forward, businesses that are not meeting the requirements of their incentive agreements will be discussed with city council to determine appropriate recourse.

Estimated Implementation Date: August 31, 2021

Issue Owner: Development Services Manager

Issue Final Approver: Planning and Development Services Director

ISS.5 – Tracking spreadsheet inaccurate and incomplete

Planning and Development Services (PDS) created an Excel spreadsheet to track various development programs, including the Economic Development Incentives program. Our review of the spreadsheet concluded that some of the program data was incomplete and not always current.

Spreadsheet accuracy

The spreadsheet includes multiple economic development programs. We reviewed formulas for accuracy across the entirety of the programs listed on the spreadsheet. The spreadsheet included numerous broken formulas. One broken formula was due to trying to sum together values in cells that had letters or words instead of numbers. Excel has requirements for structuring formulas; some formulas lacked the correct structure and consequently did not work. The spreadsheet also included blank columns. The spreadsheet design did not make it easy to follow the information flow.

Totals on the spreadsheet did not efficiently use formulas; this method increases the risk of including or excluding relevant data as data is added to the spreadsheet. Summary results also did not detail what was summarized. Some of the summaries for the rebates tracking program did not include all related numbers. These summary results in the spreadsheet may not be complete. There were also formulas within the spreadsheet that served no apparent purpose.

⁹ The need to document procedures was addressed in Milestone 3.

Utilizing separate tabs for each program would eliminate the need to add cells and allow for better formulas and other analytical tools such as pivot tables. Labeling totals and summaries would provide clarity on what PDS is tracking and why.

Inclusion of all active agreements

To verify recent agreements were included within the spreadsheet, we used keyword searches in Council agendas and minutes to identify contracts. We reviewed the period from January 2019 through December 2020. All agreements identified were included in the tracking spreadsheet. The Aurora Economic Development Council (AEDC) provided us with their tracking list of active contracts. We compared this to the PDS spreadsheet, and all active agreements on the AEDC list were in the PDS spreadsheet. The tracking spreadsheet included all recent agreements we were able to identify.

Accuracy of rebate and waiver amounts

The City pays businesses a rebate of sales and uses taxes paid or grants a waiver of the taxes when the company pays them at the permit counter. We compared the rebate amounts showing "paid" in the spreadsheet to the City's financial system for active agreements. The information agreed for four of five businesses.

Waivers were handled via manual records and not recorded in any software system. We cannot verify that the tracking spreadsheet includes all tax waivers due to the methods used to process the waivers. We discussed this in more detail in **ISS. 3**.

Program and agreement data

Data within the spreadsheet is incomplete or inaccurate.

The spreadsheet data included a column for public purpose description (jobs creation); however, not all cells included this information. A column for action items is not up to date; some action items dated back to 2017 with no updates. The column for expected expiration is blank for most agreements.

We compared four critical areas of the spreadsheet information for job incentives to agreements for active or recently terminated contracts. This review included:

- *Types of incentives:* Agreements and spreadsheet agreed.
- *Agreement date:* Three of eighteen dates differed between agreement and spreadsheet.
- *Incentive amount:* One of eighteen amounts differed between agreement and spreadsheet; the difference was \$125.
- *Jobs required at the end of the agreement:* Three of eighteen job amounts differed between the agreement and spreadsheet.

The tracking spreadsheet is the only mechanism in place to track all the program data in one location. The data is not aggregated anywhere else; consequently, the spreadsheet must include all information, and PDS must update the spreadsheet on a timely basis. Inaccurate and incomplete data within the spreadsheet could misrepresent program results and agreement statuses when reporting to the taxpayer's, City Management, and City Council.

The City could damage relationships with businesses by underpaying the amounts expected by businesses due to inadequate tracking of payments. Without detailed and accurate monitoring, the City risks losing money by overpaying agreement amounts. This is a crucial document for managing the incentives program and the necessity for maintaining its accuracy and currency cannot be understated.

Recommendation

We recommend Planning and Development Services improve the spreadsheet as follows:

- Track each incentive program separately.
- Include detailed descriptions of results and summaries.
- Utilize formulas, pivot tables, and other analytical tools.
- Update inaccurate information in the spreadsheet.
- Develop procedures to update each spreadsheet promptly; and
- Develop processes to review the spreadsheet at least annually for accuracy and completeness.

Management Response

PDS concurs with the audit recommendations and will work with AEDC to better and more consistently track the active agreements and associated supporting documentation particularly that documentation which is collected and managed by AEDC under the terms and conditions of their professional services agreement with the City.

Estimated Implementation Date: June 30, 2021

Issue Owner: Development Services Manager

Issue Final Approver: Planning and Development Services Director

ISS.6 - Agreement concerns

Our review of the tracking spreadsheet and related agreements identified some concerns with the handling of agreements.

Approval date

The date of one agreement was before Council approval. City Council approved the agreement on November 18, 2019; the agreement date was November 7, 2019. The City's signatures on the contract are dated May and June 2020. It is unclear why there is a large gap in time from when Council approved the agreement in November 2019 and the final signors signed in June 2020. Responsibility for tracking the signatures and finalization of agreements resides in each department. Tracking the contract through its various approval stages is essential to ensure its timely and complete approval.

Tracking agreements

Agreements are kept in hard copy or on a shared drive. The incentive agreements are in effect for long periods, on average about ten years. As personnel and roles

change, utilizing technology to retain and track agreement information centrally can ensure the data is readily available.

Effective dates

Each agreement includes language that the taxpayer's failure to execute the agreement by the effective date makes the offer null and void. For some contracts, the taxpayer did not sign by the agreement effective date or lacked a signature date to verify compliance. The City signed and approved all agreements without amending the effective dates. The City needs to comply with the requirements in its contracts or reconsider including such wording.

Recommendation

We recommend:

- Training for Planning and Development Services staff on responsibilities regarding agreements, including compliance with effective dates and dates on signatures.
- Enter all agreements into the Agreement Control System managed by the Finance Department.
- Working with the City Attorney's Office on the effective date wording to ensure this section's intent and purpose is clear.

Management Response

PDS concurs with the recommendations of the audit. Discrepancies between effective and signature dates will be reconciled and noted on the tracking spreadsheet.

Estimated Implementation Date: December 31, 2021

Issue Owner: Development Services Manager

Issue Final Approver: Planning and Development Services Director

ISS.7 – Clawback process inadequate

Planning and Development Services (PDS) has no documented procedures for handling the recoupment of payments due to non-compliance by the business. As a result, while the City requested one business repay funds for non-compliance, we found no record that a payment was received.

Business 6 did not comply with their jobs requirements but received waivers and a rebate of over \$300,000. After seven years of non-compliance, the City sent a letter in July 2019 requesting partial repayment. There was no documented follow-up by PDS staff to ensure the payment was received. When we inquired in January 2021, PDS was unaware there was no record of receipt of the payment. Without adequate procedures to seek the return of funds for non-compliance, the City may not be repaid funds as required in agreements.

Recommendation

We recommend PDS develop and implement written procedures for tracking payment receipt when the City enacts the agreements' clawback sections. We also recommend

Planning work with the City Attorney's Office to obtain the referenced payment owed to the City.

Management Response

PDS concurs with the recommendations. Staff will work to update policies as to how to address clawback provisions in agreements, including how to document and addresses businesses that fail to honor clawback provisions within agreements.

Estimated Implementation Date: June 30, 2021

Issue Owner: Development Services Manager

Issue Final Approver: Planning and Development Services Director

ISS.8 – Agreement with AEDC needs updating

The City has an agreement with the Aurora Economic Development Council (AEDC). AEDC is currently required to track compliance for agreements they facilitate. As noted in Milestone 2 and 3 reports, the City lacks documented criteria for what AEDC is required to monitor and for which economic development rebate agreements AEDC has responsibility. Per the agreement AEDC must also provide various types of financial information and business reports. The City does not have procedures to ensure that the documents are received as required.

Business agreement compliance

During our review of business compliance with agreements, the support for one business was an email from AEDC. AEDC reviewed the business payment request and support it received and provided an email to the City requesting the City make the payment. The AEDC email addressed some, but not all, of the compliance elements. At our request, we were able to review the business request and supporting information, verifying the business complied with its requirements. The City has not provided AEDC a reporting template or checklist to use when reviewing businesses' supporting information and reports. Without this information, the City cannot easily determine if AEDC has verified all the required information.

Business incentive agreements include required compliance reports. The compliance reports typically require an itemized list of employees, which contain personally identifiable information. AEDC reviews this documentation but does not provide copies to the City, due to the sensitive nature of the information. The AEDC agreement does not address whether AEDC must retain all documentation for agreements in accordance with City record retention requirements. Unless this is addressed, the City may not be in compliance with record retention laws.

AEDC compliance

The agreement with AEDC requires monthly financial reports, a copy of the annual independent audit, a business plan annually, quarterly performance reports regarding job creation, and a yearly report on economic development agreements' previous year statuses. The current practice is haphazard as AEDC provides some of these documents during City committee meetings or only at the City's request.

The City lacks procedures to ensure they are receiving all documentation as required. The City needs to ensure that necessary items in its agreement are received or update the agreement's terms to specify when, where and how records can be provided.

Recommendation

We recommend:

- The City develops a reporting template for AEDC verifying businesses met all compliance requests prior to payment.
- Planning and Development Services works with the City Clerk and City Attorney's Office to develop a record retention schedule for incentive agreements and supporting documentation.
 - The City determines whether AEDC will adhere to the retention schedule or provide copies of support directly to the City for retention.
- The City updates the AEDC agreement specifying what reports and information AEDC must provide, when it must be provided and how it must be provided.
- The City updates the AEDC agreement's language to specify if an annual report of prior year activity is required or if a yearly update is sufficient. These reports should be sufficient for the City to determine whether it is receiving sufficient value for its investment. The City should also define terminology such as "status."

Management Response

PDS concurs with the audit recommendation and has been working collaboratively with AEDC to continue updating contracts, policies, and procedures to more effectively track and administer the program. Staff will utilize the audit recommendations to develop another set of revisions to the AEDC Agreement as well as develop the report templates outlined. Staff will also work with the Clerk to develop a record retention schedule.

Estimated Implementation Date: December 31, 2021

Issue Owner: Development Services Manager

Issue Final Approver: Planning and Development Services Director

Appendix A

PRIMARY JOB CREATION AND RETENTION INCENTIVES: POLICY GUIDELINES (approved November 18, 2013)

PURPOSE: The City is authorized to provide economic development incentives under Section 130-298 of the city's Sales and Use Tax Ordinance. These types of incentives are used to attract or retain employers within the City and create or retain primary jobs. A primary job is one in which 50% or more of the product or service produced by the job is exported outside of the regional economy. Creation and retention of these types of jobs increase income in the local economy which can be spent on local goods and services and produce tax revenues for the City.

ELIGIBLE PROJECTS: Projects considered for incentives must create or retain primary jobs within the City. Examples of the City's targeted primary industries include bioscience, aerospace and defense, renewable energy and transportation logistics. The project must be considering alternative locations outside the city.

ASSISTANCE: All incentives are performance based. Qualified businesses may receive a partial rebate of net new sales and use taxes on eligible construction materials and equipment over a defined number of years. Only a partial rebate of these taxes is given to assure that the City will receive some net new tax dollars to help pay for City services. Incentives are provided at the sole discretion of City Council and are subject to approval by the Aurora City Council at a public meeting.

ADDITIONAL CONSIDERATIONS:

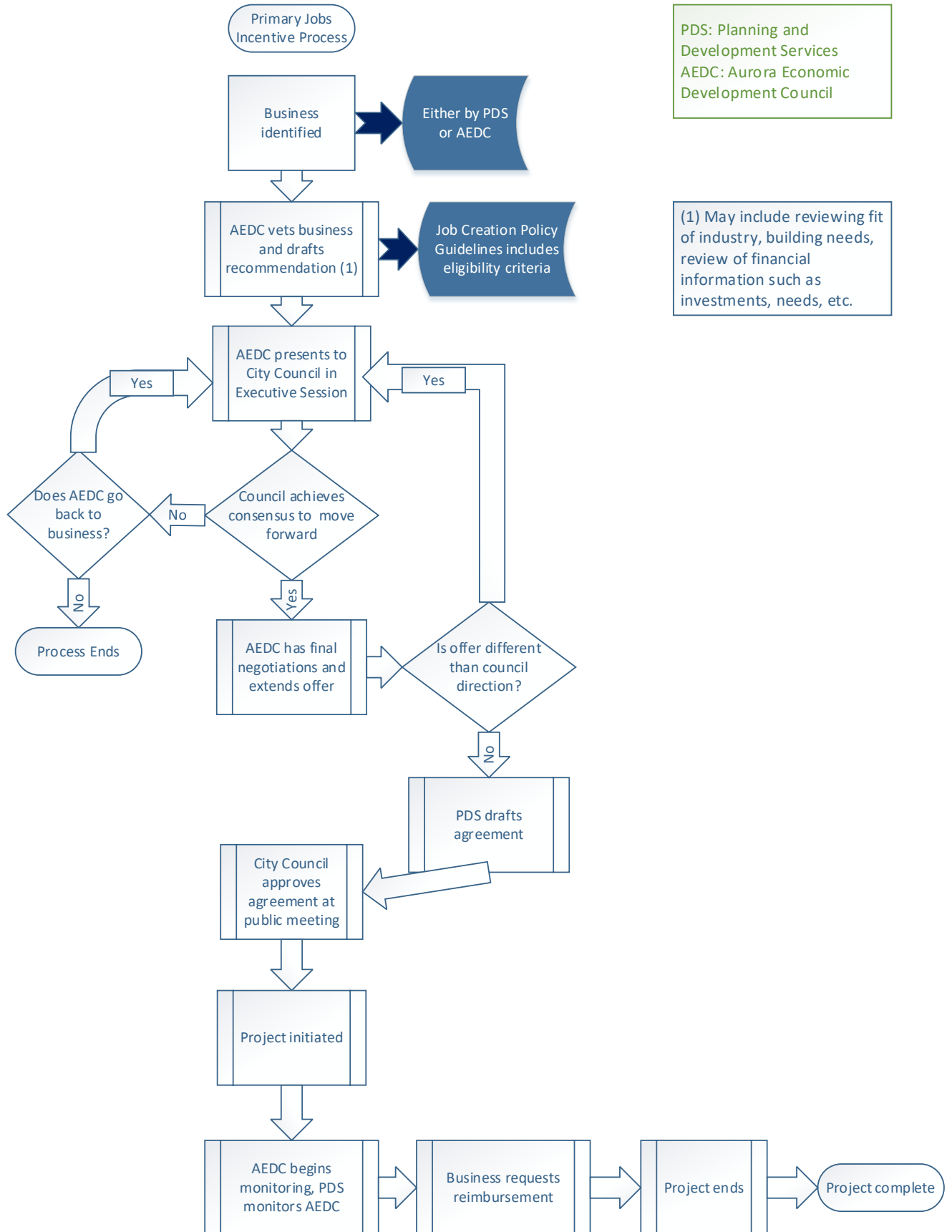
- **Capital Investment:** The extent to which the business will generate additional tax revenue for the city, county, and state is considered.
- **Jobs/Wages:** The number and average wage rate of the primary jobs created and/or retained is considered as part of the benefit that the local economy will receive.
- **Public Benefit:** Projects that help to accomplish other City goals and objectives, or which provide substantial public benefit may be considered.
- **Provision of Health Benefits:** The extent to which the business provides health benefits to its employees is considered.

PERFORMANCE STANDARDS: A formal contract is signed between the city and the business receiving incentives with specific performance standards. Typically, incentives are paid on an annual basis after the company certifies that it has met the required performance standards for the year. Businesses which do not achieve or maintain these standards during the full term of their agreement are subject to penalties including the claw-back of a portion of previously paid incentives. The following standards are frequently included within the agreements for primary job incentives:

- 1) The length of time during which the company intends to operate within the city; a minimum of 10 years is usually the required term.
- 2) The creation and maintenance of a predetermined minimum number of jobs. This number may vary with different types of businesses. The business must maintain a minimum number of jobs in order to continue to receive incentives.
- 3) The extent to which the business intends to encourage its employees to reside within the city and to recruit new employees from residents of the city. The county workforce centers are available to assist the business with the hiring process to help achieve this goal.
- 4) The extent to which the company in the normal course of its operations will promote Aurora as its business location, where appropriate.
- 5) Compliance of the business with all applicable zoning and other federal, state, county, and city statutes, rules, regulations, and ordinances.

Appendix B

Below is a process map for administering incentives. We developed this map with input from the Planning and Development Services staff and the Vice President of the Aurora Economic Development Council.



PDS: Planning and Development Services
 AEDC: Aurora Economic Development Council

(1) May include reviewing fit of industry, building needs, review of financial information such as investments, needs, etc.