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Arizona Commerce Cronies: Picking and Choosing Winners With Your Tax Dollars

by Emily Gersema, Investigative Journalist, Goldwater Institute

After secretly agreeing to hand $10 million of public money to Apple Inc., the Arizona Commerce Authority (ACA) is coming under new scrutiny for sweetheart deals and bad investments.

Consider, for example, the security company owner who spent his $250,000 ACA grant on luxury cars and a plush Scottsdale office. Former AT Security Services owner, Jacques L. Davis, 27, was convicted in Maricopa County Superior Court last summer on one count of theft and one count of illegal control of an enterprise. He is serving his 2-1/2 year prison sentence in Douglas.

When the Arizona Department of Commerce became the ACA in 2011, supporters hoped its new "quasi-governmental" structure would free the agency to court major employers. The agency's board of directors, chaired by Governor Jan Brewer and comprised of high-profile business executives, set the goal of bringing 75,000 jobs to the state in five years.

The state gives the agency $35 million a year and places an estimated $25 million of it in the "Arizona Competes Fund" (ACF). Referred to as the "deal-closing fund," this pot of money is designated to subsidize companies' expansion and, if possible, their relocation to the state. The remaining $10 million from this annual fund is then split, with $5 million to pay the salaries of the agency's 68 staff members and the rest for other operational costs. Even if the agency does not spend the full $35 million in a year, the fund is replenished each fiscal year with a fresh $31.5 million from state income tax collections and $3.5 million in lottery revenues.

The agency's chief executive officer has the unilateral authority to determine which companies receive subsidies from the ACF. State law specifies that certain businesses are eligible for the fund's subsidies.

However, financial records show the ACA awarded at least $1.5 million of its $10 million in grants from the ACF in three years to cities, towns, and nonprofit groups for projects with little statewide economic value.

For instance, the City of Flagstaff received a $100,000 grant that it gave to an ice cream cone-maker, Joy Cone Inc., to build a new batter room, shut down an incinerator, and hire five new employees over three years.

The ACA also gave $340,000 from the ACF to a Casa Grande-based nonprofit group, Central Arizona Regional Economic Development Foundation. The organization had applied for $190,000 to give to a German company, Commonwealth Dairy, for a Greek yogurt plant that would employ 106 people in Casa Grande. The foundation said the remaining $150,000 in grant money was for the engineering firm, Phoenix Technology Works, which planned to hire five people.

Recently, the Commerce Authority tapped the ACF to build roads that most drivers around Arizona will never travel. The agency in December awarded the Town of Prescott Valley $500,000 to finish building "Enterprise Parkway" to link a business park to State Route 69. It also gave $369,156 to the City of Coolidge to complete the one-mile "Randolph Road," which will connect an industrial zone to State Route 87.

"You'd have a big pot of money, and really nobody to oversee it. There'd really be nobody to question whether this was a good use of funds or not."

Legislators, economic policy experts and watchdog organizations worry that, by design, the ACA lacks the checks and balances that could protect taxpayers from financial and political abuse. The statute regulating the ACF specifies that grants from the fund go to certain businesses or promote rural development. Since the ACA has never written any further rules to clarify eligibility criteria, the fund has been tapped for everything from a company's expansion, to a city's small road project, even though residents already pay other taxes that are dedicated to infrastructure.

Senate president Andy Biggs, R-Gilbert, who is an ex-officio non-voting member of the board, said he had opposed turning the Arizona Department of Commerce into a public-private agency because he worried that the new organization would lack accountability. Two years later, he said he still has misgivings.

"You'd have a big pot of money, and really nobody to oversee it," Biggs said. "There'd really be nobody to question whether this was a good use of funds or not."


Arizona Free Enterprise Club Executive Director Scot Mussi

Scot Mussi is executive director of the Arizona Free Enterprise Club, a nonprofit that is seeking new accountability measures for the ACA, such as requiring disclosure of corporate tax credits.

"We're talking about an entity that decides who can get special treatment, whether it's from tax credits or whether it's money from the deal-closing fund," Mussi said. "And there's no good evaluation on the results. There's no real audit."

A Goldwater Institute investigation found through interviews and documents that much of the agency's secrecy and questionable spending are enabled by the laws that define and govern it. Among the findings:

- The ACA has not formalized any process or adopted consistent written rules or criteria for awarding grants from the ACF.

- State laws governing the commerce authority have shielded the board of directors from publicly discussing pending deals, economic opportunities, and potential conflicts of interest. These laws also exempt the board from disclosing records.

- The Commerce Authority's chief executive officer can unilaterally award agency funds to businesses, without the board's approval and without public input or disclosure.

- The board of directors' ethics committee, which reviews conflicts of interest, has declined to call for the recusal of any board or staff member, although some have business, political and philanthropic interests that have benefited or could potentially benefit from the agency's business dealings.

- ACA funds are vulnerable to political abuse. Last year, the legislature tacked onto the state budget bill a last-minute provision to loan $2 million to the Apache Railway line in Snowflake. Goldwater Institute attorneys have warned agency officials that the loan violates the state constitution, which bars special laws that provide government gifts, loans or subsidies to businesses.

"A Goldwater Institute investigation found through interviews and documents that much of the agency's secrecy and questionable spending are enabled by the laws that define and govern it.

The governor's top aide did not return Goldwater Institute phone calls or e-mails about the ACA.

LESS TRANSPARENT

The quasi-governmental design of the ACA is a trend in state economic development. Like Arizona, about a dozen other states in recent years have restructured their states' entrusted the private sector economic development agencies, or a portion of their agencies' programs and initiatives. Connecticut, Florida, Indiana, Iowa, Michigan, Rhode Island, Texas, Utah, Virginia and Wyoming have turned their commerce departments or incentive programs into quasi-government agencies. North Carolina is considering a similar move.

The transformation was intended to give the economic development agencies an infusion of expertise and more flexibility to court business. Unfortunately, the ACA is costing the state five times more than its predecessor. The state appropriates $31.5 million annually to the ACA, compared to the estimated $6 million it appropriated to the Arizona Department of Commerce.

The blueprint for the quasi-governmental ACA was a 2010 report by the Governor's Commerce Advisory Council. Council members included seven executives from some of Arizona's largest companies and organizations, and then-director of the Arizona Department of Commerce, Donald Cardon.

Gov. Jan Brewer appointed sports mogul and real estate investor Jerry Colangelo as council chairman. Other members were Don Brandt, president and CEO of Arizona Public Service's Pinnacle West Capital Corp.; Paul Bonavia, CEO and president of Tucson's UniSource Energy Corp.; Bob Campbell, president of W.L. Gore and Associates; Brad Casper, CEO of Dial Corp./Henkel; Linda Hunt, head of CHW Arizona and St. Joseph's Hospital and Medical Center; and Roy Vallee, chairman and CEO of Avnet.

Some of the accountability measures typically in place to safeguard government spending do not exist at the ACA.

The council's report highlighted states such as Florida, Texas, Utah and Virginia, whose economic development agencies work with nonprofit organizations that raise and spend private money to attract companies, jobs and investors to their states. The council made no mention of the reported and documented mismanagement at those model state agencies, but focused on their reported accomplishments. The council concluded that public-private partnerships were crucial for job growth.

"Activities aimed at economic development and marketing a state or region can be more successful if the public and private sector work together, rather than on their own," the council wrote in the March 2010 report. "These organizations typically remove politics from day-to-day activities of the organizations and allow them to operate on a nonpartisan basis, with the long-term interests of the state as their top priority, versus short-term political agendas."

The governor's advisory council wrote that Arizona's economic development agency should value principles of "transparency and accountability." However, some of the accountability measures typically in place to safeguard government spending do not exist at the ACA.

Arizona's quasi-governmental agency is less transparent than its counterpart in Texas, where the agency has fallen under national scrutiny as a "favors fund" for the governor's office.

The Texas department must disclose all of the grants and incentives that it awards to companies, and the Texas Comptroller of Public Accounts or Texas State Auditor's Office can audit its finances.

Texas allocates an estimated $500 million annually to subsidize economic development through three funds: the $240 million "Enterprise Fund," a $140 million annual "Economic Development and Tourism Fund," and a $114 million annual "Emerging Technology Fund."

The ACF most closely mimics the Texas Emerging Technology Fund. Both states' funds are overseen by a board of directors whose chair is the state governor.

The ACA has a much smaller budget for subsidies - $25 million a year in the ACF. It also has several legal exemptions that ensure board members and agency staff can maintain secrecy. By law, Arizona agency staff and board members do not have to disclose records or hold public discussions on issues that could potentially harm the competitiveness of the state or businesses, or that could expose trade secrets.

Vice Chair Jerry Colangelo

State laws also exempt the agency from following the uniform accounting standards required of other state departments. The ACA is allowed to hire a third-party contractor to conduct an annual audit while other agencies are reviewed by the Arizona Auditor General's office.

Like Texas, Arizona also uses private nonprofit groups that collect and spend donations to support their states' marketing efforts.

Researchers have found these nonprofit partnerships are a tool for politicians to circumvent state open meetings and records laws and interact privately with business representatives.

The nonprofit TexasOne collects millions of dollars in private donations to spend on Texas governor Rick Perry's efforts to market Texas to out-of-state businesses.

> ***"Researchers have found these nonprofit partnerships are a tool for politicians to circumvent state open meetings and records laws and interact privately with business representatives.***

The New York Times and Bloomberg News found subsidies were awarded to many companies with ties to a key TexasOne donor, Ryan LLC. Several of those TexasOne donors also contributed to Perry's political action committee.

The Arizona nonprofit group that supported the ACA, Team ACA, reportedly received donations from companies that also gave money to Governor Brewer's political action committee and donated directly to the ACA. State officials and vice chair of the board, Jerry Colangelo, recently told the Arizona Republic they were shutting down the nonprofit, Team ACA, because donations can be made directly to the agency.

"The chief executive officer, who does not have to hold public meetings to discuss or vote on which businesses the agency will aid, has unilateral authority to award subsidies.

CHECKS AND BALANCES

Governor Janice K. Brewer

Governor Brewer issued an executive order in 2010 to transform the Arizona Department of Commerce into a public-private agency. Citing recommendations from the Governor's Commerce Advisory Council, she then set up a board of directors, declared herself the chairwoman, and appointed 17 other business leaders to the board, including advisory council members Colangelo, Bonavia and Vallee, to serve staggered terms.

The board chose another advisory council member, then-department director Don Cardon, to lead the new agency. Cardon was paid a hefty $300,000 annual salary with a $50,000 signing bonus and a $12,000 car stipend – until he resigned in the middle of his three-year contract in 2012.

The governor negotiated a deal with legislators to fund and solidify the agency's creation. She approved a $538 million tax cut package in exchange for a series of subsequent bills referred to as the state's "Competitiveness Package." This package included an annual funding allowance of $31.5 million from state income tax collections, and another $3.5 million from state lottery revenues, to pay for the agency's economic development efforts and cover the cost of its operations.

Most government departments and agencies have a governing board, council or commission that discusses and makes major spending decisions in public meetings. However, the state laws that govern the ACA allow the board of directors, its committees, subcommittees and advisory councils to discuss

SPOTLIGHT: SPECIAL FAVORS MAKE SPECIAL LOANS

Legislators and economic policy experts are worried that leaders who oversee the Arizona Commerce Authority utilize its grant funds as special favors to businesses or political officials in exchange for potential campaign donations or local projects.

Their worries increased last year when the ACA's special deals included a $2 million loan to spare a northeast Arizona railway from the scrapyard.

State law describes the commerce agency's annual $25 million Arizona Competes Fund as a "deal-closing" grant fund for businesses. However, legislators working with the governor last summer approved a special provision to loan $2 million in Commerce Authority funds to a county "with more than 100,000 residents but less than 120,000" based on the 2010 census.

Only one place in Arizona fit that description: Navajo County, where a paper mill company, Catalyst Paper Inc., had shuttered in 2012. Catalyst's closure left more than 300 employees jobless. The plant's private rail line, Apache Railway, also faced closure as Catalyst intended to sell its parts to a scrapper.

The Apache Railway near Snowflake in northeast Arizona employs eight people who repair and maintain box cars, train engines, and the rail.

Rep. Frank Pratt, R-Casa Grande, who was the budget bill's lead sponsor, said he had nothing to do with the special provision. The Navajo County loan was added last-minute to the state budget bill and never heard in committee. "It came, I think, through the governor's office," Pratt said.

The governor's office did not return phone calls seeking comment.

Commerce Authority subsidies are usually awarded as grants to businesses. Senate president Andy Biggs, R-Gilbert, who opposed the loan, said he wonders if the Navajo County provision in the appropriations bill signaled a new trend in Commerce Authority spending and political abuse.

The ACA fund "is not supposed to be a fund that you would loan out money from," said Biggs, who is a non-voting, ex-officio member on the agency's board of directors. "My recollection is that the fund was supposed to be a 'deal-closing' fund."

The Goldwater Institute sent Commerce Authority officials a letter in the summer, warning that the loan violated the state constitution.

"The Arizona Constitution prohibits the government from bestowing favors on special interest groups or preferred localities," said Jonathan Riches, an attorney for the institute. "The loan commitment made to the Apache Railway Company is precisely the type of preferential treatment proscribed by our constitution."

Goldwater Institute attorneys believe the legislation for the special loan to the Apache Railway violates the state constitution. Snowflake officials say they believe it will help save their local economy.

Although Snowflake is in a remote area 175 miles northeast of Phoenix, it is home for some influential business and political leaders who lobbied state officials last year for special legislation to keep the 38-mile Apache Railway open.

The most vocal advocate was Steve Brophy, a businessman and rancher who is the brother of state Rep. Kate Brophy McGee. Steve Brophy also is president of one of Navajo County's largest landowners, Aztec Land and Cattle Co., which has more than 228,040 acres there and a vested interest in development. A 2011 Aztec master plan for land use in the area in highlighted the short-line rail as a "significant regional resource representing largely untapped potential for intermodal transportation." Aztec eventually paid $160,000 to ensure the paper mill's new owner, Hackman Capital, would leave the rail intact while Brophy and other rail advocates found other funding opportunities to sustain it.

Town manager Paul Watson said Snowflake could not afford to buy the rail. "We have a $4 million to $5 million a year operating budget. We have no property tax."

Brophy had the support of Snowflake City Council members, as well as Hormel Foods Corp.'s PFFJ, LLC hog farm. PFFJ vice president of farm operations, Jose Rojas, in March wrote a letter to state officials in which he offered support for "all efforts to preserve the Apache Railroad in full operation." The company said it uses up to 90 rail cars per month to ship feed from the Midwest to the hog farm.

Brophy said he then asked ACA officials for their help after he and Snowflake town officials learned that they would need more funds to qualify for a Federal Rail Administration grant. "I talked to my board and they said, 'We don't want Aztec associated with a grant. We want a loan,'" Brophy said.

Supporters of the Apache Railway successfully lobbied state officials last year for a special $2 million loan to save the railway from closure.

Agency staff told Brophy they could not offer a loan without special legislation, Commerce Authority chief executive officer Sandra Watson said. However, the agency believes "rail infrastructure is a real important element to economic development in general," Watson said.

Brophy said he met with officials in the governor's office and "a bunch of legislators."

"We talked to whoever would see us in the Senate," he said.

For years, the only client Apache Railway serviced was Catalyst, the railway's owner. Since Hackman Capital bought the mill and reached a deal with Aztec for the rail a year ago, Apache Railway has begun working with a handful of other clients, including Burlington Northern Santa Fe for storage and repair of rail cars, as well as a Mexico-based telephone pole maker.

Shirley Cornett, the Apache Railway superintendent, said she believes the rail has far more potential clients in the future. She and other Snowflake locals predict that the area's dormant timber industry will revive as the U.S. Forest Service shifts its policy to encourage deforestation as part of wildfire prevention.

The local officials also note that three companies, Passport Potash, HNZ Potash LLC and American West Potash , have said they want to open potash mines near Holbrook that would provide vital ingredients for making fertilizer. However, those proposals have been discussed for several years without a shovel breaking ground.

An Arizona Department of Transportation study set for release in the coming months boasts of the rail's potential value. "Perhaps the most important transportation asset for the Second Knolls area is the Apache Railway," ADOT officials wrote in the 119-page draft of the "Second Knolls Development" study.

The study was paid for with $162,000 in federal transportation funds, said ADOT spokesman Timothy Tait.

business opportunities in executive session.

Although the ACA has a large board of directors, “the board doesn’t make decisions on the actual incentive programs,” said Sandra Watson, a longtime Arizona Department of Commerce employee whom the board promoted to succeed Cardon as chief executive officer in 2012. “They don’t have a say on who gets what incentives.”

The chief executive officer, who does not have to hold public meetings to discuss or vote on which businesses the agency will aid, has unilateral authority to award subsidies.

The 17 voting members on the board of directors provide “private sector leadership in growing and diversifying the economy of this state,” according to its mission described in A.R.S. 41-1502.

“Although the ACA has a large board of directors, “the board doesn’t make decisions on the actual incentive programs.”

The board also has a set of non-voting ex-officio members, which includes the Senate president, House speaker, presidents of the three state universities, the president of the Arizona Board of Regents, a president of a community college, chairman of the Arizona Aerospace and Defense Commission, chairman of the governor’s council on small business, the chairman of the governor’s council on workforce policy, a member of the Arizona rural business development advisory council, a representative for the Arizona League of Cities and Towns, and the president of the County Supervisors Association.

ACA is allowed to self-monitor to some degree. It can hire a third-party auditor to review the agency’s books and performance each year. The agency submits the report to the Arizona Auditor General’s office, which decides whether or not to accept the annual audit as is, or to conduct its own review.

The office had been accepting the ACA’s third-party audits, but plans to conduct its own review this year.

The agency’s board of directors has met in executive session at all nine of its meetings since August 2011, according to minutes and agendas on the azcommerce.com website. Board agendas often described the reasons for closed sessions as “client updates” and “business development strategies.”

The law A.R.S. 41-1502 gives the board far-reaching exemptions from Arizona’s public meetings laws when it or its committees, advisory councils and subcommittees discuss business opportunities that if made public could potentially harm businesses’ or the state’s competitive position.

Apple Inc. took an extraordinary step to ensure secrecy and required state and local officials to sign confidentiality agreements for the $10 million grant to move a subcontractor into the Mesa plant. Goldwater Institute attorneys found the agreements disconcerting.

"Arizona's broad public records laws strongly favor the disclosure of all public information," said Jon Riches, a Goldwater Institute attorney. "Confidentiality agreements, particularly when public dollars are promised, should be the very rare exception, not the rule."

On top of the subsidies it controls, the ACA also has aided companies through the various tax credit programs that it oversees, including for film production, manufacturing, renewable energy, solar power, research and development, and computer data centers. Arizona's tax laws offer companies another layer of secrecy and prohibit state officials from publicly identifying any taxpayer who has qualified for credits.

> ***Arizona's tax laws offer companies another layer of secrecy and prohibit state officials from publicly identifying any taxpayer who has qualified for credits.***

"We think it's particularly important that an entity like the Commerce Authority has really strong safeguards in place because it's essentially a private board of directors handing out public money to other private entities," said Serena Unrein, who represents the consumer watchdog organization Arizona Public Interest Research Group.

Unrein said that although the agency's grant contracts with companies each contain a set of objectives for job growth and capital investments, the agency does not have similar reporting standards for the various tax credit programs it oversees.

"We don't know in a lot of cases what we're getting for our investment," Unrein said. "Right now, the checkpoints for these programs are all over the map."
State auditors 10 years ago recommended that Arizona end confidentiality for corporations and suggested terminating many of the tax credit programs because research has produced little evidence that they drive economic growth.

Watson defended the ACA's confidentiality as a necessary precaution to attract businesses to the state and for assisting existing businesses with expansion.

"Clients who are thinking about creating jobs, making a capital investment, making a business decision to either expand their operations or locate in the state – they may not have shared that (information) with their employees," Watson said. "They may not have shared it with their shareholders yet. They may be a publicly-traded company and [disclosure] can have an implication on its stock prices."

Major businesses are notorious for threatening to transfer locations when they attempt to net additional state subsidies and tax breaks. A researcher for the Washington, D.C.-based watchdog group that tracks economic development issues nationwide, Good Jobs First, said state officials should call their bluff. "Ninety-eight plus percent of the cost factors for a company in making a site location have nothing to do with the taxes," said Good Jobs First researcher Greg LeRoy. "It has to do with raw materials, the labor."

LeRoy noted that Archer Daniels Midland's threat last year to leave Illinois provoked a stand-off in the legislature over a multi-million dollar incentive package to assuage the company. The Illinois House rejected the deal in December. The company remains in Illinois.

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CONFLICTS AND ETHICS

The high-profile leaders on the ACA's board of directors have extensive interests outside of the board, which has heightened skepticism among legislators and policy analysts about whether board members themselves influence which companies receive incentives.

Many members have led multiple companies and are philanthropists, acting as donors and volunteer board members for area nonprofit and trade organizations. Some have contributed to each other's personal or political causes.
State law requires ACA officials, staff and directors to declare any conflicts of interest and recuse themselves when they could benefit personally and financially from the agency's activities.

Board members' potential conflicts of interest are:

- Commerce Authority board member Drew Brown is chairman of the real estate and development firm DMB Associates, which developed Eastmark in Mesa where the Apple Inc. plant is located. Another of DMB's limited-liability companies, DMB Mesa Proving Grounds, and Apple Inc.'s Arizona limited-liability firm, Platypus Development, signed real-estate development agreements in early November, weeks before the ACA announced its $10 million subsidy for Apple.

- ACA officials have been promoting the Interstate 11 freeway project to connect Las Vegas to Phoenix that would bisect more than 40,000 acres owned by the ACA board of directors' vice chairman, Jerry Colangelo, and his fellow developers at JDM Partners. Their real estate group wants to build the "Douglas Ranch" and "Trillium" master-planned communities on the properties. An executive administrative assistant for JDM Partners, Jennifer Gray, declined requests for an interview on Colangelo's behalf.

- Colangelo, a sports mogul and real estate developer who is the vice chairman for the ACA board, leads a nonprofit organization, Team ACA, which has collected and donated private funds to the ACA. Team ACA is even less transparent than the ACA in its financial disclosures.

- Team ACA vice chairman Ed Zito and the organization's first president, former Commerce Authority CEO Don Cardon, told the ACA board of directors at an Oct. 19, 2012, meeting that they had planned to disclose donors in the nonprofit group's annual Internal Revenue Service disclosure forms, according to an Arizona Capitol Times article. Cardon also then told the board that University of Phoenix's parent company, Apollo Group, and Alliance Bank had donated more than $600,000 to the organization. However, contrary to Cardon's promise to disclose donors, the nonprofit group's first IRS filing, released in September 2013, didn't identify donors. Team ACA also reported significantly lower revenues—$200,046—than Cardon had announced.

- Cardon received payments from the nonprofit group while acting as chief executive officer for the ACA. IRS filings for fiscal 2011 show Team ACA paid Cardon $30,000 in 2011. Cardon resigned as CEO a year later but remained president of Team ACA for nearly two more years. Last fall, Colangelo took over as president. Colangelo recently told the Arizona Republic that the nonprofit group would be dissolved.

The ACA ethics committee has three board members whom the governor appoints to review conflict-of-interest disclosures. The committee determines whether a director has a conflict or needs to take additional steps, beyond disclosure or recusal, to prevent the conflict or an appearance of one.

The agency's ethics policy doesn't specify what those other measures could include, but they "shall be agreed upon and implemented by the ACA and the Stakeholder," according to the policy.

The committee met three times from January 2012 to December 2013. It has not found a single case in which it chose to take any special measures to address a board member's declared conflict.

When asked why a committee is needed to review declarations of potential

"The committee determines whether a director has a conflict or needs to take additional steps, beyond disclosure or recusal, to prevent the conflict or an appearance of one.

> ***Typically, a government agency releases formal rules that describe qualifications for receiving a grant. The ACA has not released any formal written policies or guidelines for the large deal-closing grants, which seven companies received from 2012 to September 2013.***

conflicts, board member Steve Macias said it ensures "that you have oversight to look at [a claim] and say, 'Is it truly a conflict, or is there just a paperwork issue here?'"

DEAL-CLOSING FUND

From 2011 through September 2013, the ACA awarded nearly $10 million from the ACF to 35 companies, cities and organizations, according to transactions that the agency reported to the Arizona Open Books website.

Typically, a government agency releases formal rules that describe qualifications for receiving a grant. The ACA has not released any formal written policies or guidelines for the large deal-closing grants, which seven companies received from 2012 to September 2013, the agency's annual report to the Joint Legislative Budget Committee shows. (This excludes the $10 million grant for Apple, awarded in November 2013.)

COMPANY	JOBS CREATED IN 3 YRS	GRANT AMOUNT
Accelerate Diagnostics	65	$1,000,000
Clear Energy	225	$1,000,000
GoDaddy.com	300	$1,500,000
Maverick Healthcare Group	376	$1,000,000
Silicon Valley Bank	220	$3,000,00
Ulthera	111	$1,000,000
United HealthCare Services	400	$200,000
TOTAL	**1697**	**$8,700,000**

SOURCE: ACA

ACA spokeswoman Nicole McTheny said the law, A.R.S 41-1545.02, is the agency's criteria. It allows the chief executive officer to award grants from the ACF to attract, expand or retain businesses.

To qualify for the ACF grants, a business must be in good legal standing in the state where the applicant was organized, owe no delinquent taxes, and qualify as an "Arizona basic industry." State law defines a basic industry as a manufacturer or business that pays employees on average 100 percent of the county's median wage, provides workers with health insurance and covers 65 percent of the premium or insurance membership. The business must also provide a third-party analysis that shows the estimated income, property, sales tax and government fee revenues for Arizona would outweigh the state's incentives.

When McTheny was asked for documents indicating whose grant proposals had been rejected, she replied: "There are no rejection letters because there is no application."

This means the seven largest grant recipients of ACA subsidies, which combined for $8.7 million in deal-closing awards, did not compete for funds through a formal application process.

The state set terms and conditions for payments in the companies' grant agreements.

The law also allows the chief executive officer to award ACF subsidies for programs and projects for "rural businesses, small businesses and business development that enhance economic development." The ACA has operated its $2 million annual "Rural Economic Development Grant" program with this section of law in mind, McTheny said.

It is not in the best interest of the taxpayers to have one person making those decisions.

Mussi of the Arizona Free Enterprise Club said he believes the state made a mistake when it gave full spending authority to the ACA's chief executive officer. "It is not in the best interest of the taxpayers to have one person making those decisions," Mussi said.

From 2012 to September 2013, the state agency gave more than $1.5 million of the $10 million in ACF grants to cities, towns and a nonprofit group, despite the legal specification that the incentives are for businesses.
The City of Flagstaff's $100,000 grant for its local ice cream cone-maker, and Casa Grande's grants for dairy and Greek yogurt manufacturing were among the rural grants awarded in 2012.

The ACA has not posted on the azcommerce.com website or published with the Arizona Secretary of State any formal agency rule that specifies criteria that businesses must fulfill to qualify for the rural development grants.

'KINGMAKER'

Good Jobs First researcher LeRoy said the creation of the ACA is part of a national trend that he refers to as a "politicization of state economic development programs," which he believes should end.

The watchdog group has determined the partnerships actually create another layer of bureaucracy that "is antithetical to accountability," researchers wrote in their October report. They urged states to avoid the public-private structure. "No matter who's on the [agency] board, if the governor's appointing them, they're going to be on a very short gubernatorial leash," LeRoy said in an interview. "[Public-private partnerships] are blueprints for mischief, and that's being kind."

> ***A government agency should help businesses navigate local and regional laws and requirements, but it should not be in charge of determining which businesses can receive state funds and which can't***

Currently, the ACA leadership chooses which businesses to assist and which to ignore, with few checks and balances. A government agency should help businesses navigate local and regional laws and requirements, but it should not be in charge of determining which businesses can receive state funds and which can't, according to Steve Slivinski, senior economist at the Goldwater Institute.

"The economic development office should serve the role of an ombudsman for businesses, including home-grown businesses, small or large, that want to remain in Arizona but need an advocate to help navigate bureaucracy, such as draconian building codes and excessively risk-averse land-use regulations," Slivinski said. "The economic development office should not try to serve the role as economic 'kingmaker' the way the current office—or other offices in other states—try to do today."

SPOTLIGHT: PERFORMANCE MEASURES

The true impact of the Arizona Commerce Authority on the state's economy is unknown, largely because of the vague way in which the agency tracks its own performance.

The agency issues an annual report that touts a list of employers it assisted for the year. The reports include numbers, but lack depth in detail and explanation. Therefore, it is unclear whether the Commerce Authority had a significant role in the creation of those positions, and the employers' expansions or relocations.

In the Arizona Commerce Authority's 2012 Annual Fiscal Report, for example, the agency boasted of helping companies create "5,610 quality jobs" and make a "$401 million capital investment" in Arizona. The agency counted jobs and investments made by retailers such as Dick's Sporting Goods and TJ Maxx among its coups, but did not explain how the Commerce Authority staff were directly involved in aiding each employer.

The agency also claimed in the report that those 5,610 jobs would have a multiplying effect, leading to the creation of 11,718 other jobs – "direct and indirect" – with a $2.9 billion economic impact on the state over a three-year period.

Byron Schlomach, director of the Goldwater Institute's Center for Economic Prosperity, said the ACA's claims in the report are unverifiable.

"There is no way to confirm, after the fact, that the jobs that were 'indirectly created' have actually been created," Schlomach said. "We don't even really know that these companies opened locations here because of anything the ACA did or gave to them."

The ACA analysis does not balance the costs of its economic incentives, which include the loss of jobs or opportunities for non-subsidized, competing businesses.

When an agency spokeswoman was asked to provide the Commerce Authority's current performance standards, she pointed to a web link for the agency's business plan, written in 2012. The document looks like a marketing pamphlet that outlines the agency's mission and goals to create 75,000 high-wage jobs, increase average wages of all jobs it helps create, and to increase capital investment in Arizona by $6 billion over five years.

The appendix details all of the jobs that the Arizona Commerce Authority chief executive officer, Sandra Watson, was credited with helping to create last year. The ACA board of directors in December awarded her a $69,000 bonus for the job growth. ACA officials declined to explain the role Watson and the ACA had in creating these jobs.

Today, the jobs and estimated capital investments that the Arizona Commerce Authority claims to have facilitated are factors that the board considers when rating the CEO's performance. The agency's achievements can net the CEO an additional $75,000 in additional bonuses at her annual performance review.

"We keep track of the companies that we've helped and all of our activity in our [content management system," said Commerce Authority spokeswoman Nicole McTheny. She did not provide additional details when asked in an e-mail to describe the type of assistance the agency provided.

APPENDIX: 2013 Jobs Created Credited to Arizona Commerce Authority CEO Sandra Watson

CapEx - Total	Jobs - Total	Account: Account Name	Reporting Quarter
$4,000,000.00	95	Integrated Technologies Group	FY13 Q1
$300,000.00	50	Quantenna	FY13 Q1
$15,000,000.00	375	QBE	FY13 Q1
$2,600,000.00	43	Teikoku Taping Systems	FY13 Q1
$31,000,000.00	28	Bridgestone Americas, Inc	FY13 Q1
$4,600,000.00	175	UPS	FY13 Q1
$14,000,000.00	531	Preferred Home Health Care	FY13 Q1
$1,200,000.00	180	LivingSocial, Inc.	FY13 Q1
$4,520,000.00	65	Accelr8 Technologies Corporation	FY13 Q1
$50,000.00	120	Phacil, Inc.	FY13 Q1
$2,500,000.00	125	Hydro Aluminum	FY13 Q1
$16,000,000.00	120	Southwest Products Corporation	FY13 Q1
$3,600,000.00	500	Convey Health Solutions	FY13 Q1
$1,000,000.00	30	iFactor Consulting	FY13 Q1
$329,121.00	140	WebPT, Inc.	FY13 Q1
$5,000,000.00	348	Intel Corporation	FY13 Q1
$82,000,000.00	370	BHP Copper Inc.	FY13 Q1
$34,582.00	35	Entrust Companies LLC	FY13 Q1
$1,200,000.00	30	Tri-Com Corporation	FY13 Q1
$300,000,000.00	300	Intel Corporation	FY13 Q1
$10,000,000.00	65	Franklin Foods	FY13 Q2
$72,000,000.00	115	Commonwealth Dairy	FY13 Q2
$5,000,000.00	65	Dalsin Industries, Inc.	FY13 Q2
$25,000,000.00	450	Atlas Holdings, LLC	FY13 Q2
$2,500,000.00	85	Triax Turbine Components	FY13 Q2
$2,079,000.00	100	Inovalon	FY13 Q2
$15,000,000.00	75	Ryan	FY13 Q2
$212,351.00	23	City of Peoria	FY13 Q2
$5,000,000.00	50	FilterMag, Inc	FY13 Q2
$900,000.00	15	AKO Engineering	FY13 Q2
$54,000,000.00	305	American Furniture Warehouse	FY13 Q2
$0.00	354	Younger Brothers Companies	FY13 Q2
$125,000.00	25	i-Frame Building Solutions	FY13 Q2
$705,000.00	21	The Industry Hair Studio, LLC	FY13 Q2
$2,250,000.00	20	Ports America	FY13 Q2
$0.00	64	Markham Contracting Company, Inc.	FY13 Q2
$25,000.00	16	Terra Verde Services	FY13 Q2
$23,599.00	16	Laser Options	FY13 Q2
$358,651.00	5	Phoenix Technology Works	FY13 Q2
$335,700.00	3	Cobham	FY13 Q2
$360,700.00	6	Cobham	FY13 Q2
$1,000,000.00	5	Joy Cone Co.	FY13 Q2
$2,380,000.00	55	Datepac, LLC	FY13 Q2
$500,000.00	35	Overseas Aircraft Support Inc.	FY13 Q2
$93,700.00	5	Arizona Stronghold Vineyards, LLC	FY13 Q2
$48,000.00	1	Freitas Vineyard	FY13 Q2
$230,000.00	4	Page Springs Vineyards	FY13 Q2
$436,876.00	12	Alcantara Vineyard & Winery	FY13 Q2
$250,000.00	3	Caduceus Cellars	FY13 Q2
$24,000.00	2	Javelina Leap Vineyard & WInery	FY13 Q2
$6,800,000.00	300	ZyTech Building Systems L.P.	FY13 Q3
$5,000,000.00	250	Union Bank, N.A.	FY13 Q3
$2,000,000.00	200	Stealth Software I.P. BV	FY13 Q3

CapEx - Total	Jobs - Total	Account: Account Name	Reporting Quarter
$1,000,000.00	75	ELRUS Aggregate Systems	FY13 Q3
$17,738,333.00	738	General Motors Corporation	FY13 Q3
$6,000,000.00	30	Performance Steel	FY13 Q3
$7,000,000.00	350	Direct Energy	FY13 Q3
$5,982,000.00	652	ZocDoc	FY13 Q3
$600,000.00	40	WTEC	FY13 Q3
$2,000,000.00	30	Villa Dolce Gelato	FY13 Q3
$500,000.00	20	Onyx Drafting	FY13 Q3
$1,000,000.00	15	San Tan Brewing Company	FY13 Q3
$1,800,000.00	37	Sargent Aerospace & Controls	FY13 Q3
$10,366.00	10	Hester, Heitel & Associates, Inc.	FY13 Q3
$50,000.00	406	Safety Services Company	FY13 Q3
$168,000.00	45	Hard Dollar Corporation	FY13 Q3
$0.00	53	Cummings Engineering Consultants, Inc.	FY13 Q3
$0.00	220	Kitchell Corporation	FY13 Q3
$250,000.00	19	Harter Industries, Inc	FY13 Q3
$0.00	10	Ace Vending	FY13 Q3
$332,000.00	50	BestIT	FY13 Q3
$0.00	40	The Orthopedic Clinic Association	FY13 Q3
$0.00	15	Sitewire Marketspace Solutions, LLC	FY13 Q3
$1,000,000.00	114	Brokers Alliance Inc.	FY13 Q3
$51,000.00	29	Consultant Engineering, Inc.	FY13 Q3
$3,300,000.00	595	HotChalk, Inc.	FY13 Q4
$12,000,000.00	450	Asurion	FY13 Q4
$90,000,000.00	60	Vieste Energy, LLC	FY13 Q4
$78,000,000.00	300	WinCo	FY13 Q4
$800,000.00	15	S.S.T Solar System Technic	FY13 Q4
$1,275,000.00	16	Old School Motorcycle Company LLC	FY13 Q4
$15,000,000.00	290	Massachusetts Mutual Life Insurance Company	FY13 Q4
$550,000.00	29	Serious Integrated, Inc.	FY13 Q4
$1,100,000.00	60	HJ3 Composite Technologies, LLC	FY13 Q4
$894,000.00	17	Arizona B&GC Solar Holdings, LLC	FY13 Q4
$4,000,000.00	202	Pride Group, LLC	FY13 Q4
$1,500,000.00	50	Matrix Absence Management	FY13 Q4
$8,000,000.00	1200	Nationstar Mortgage	FY13 Q4
$251,000.00	16	Dynamic Manufacturing and Engineering, LLC	FY13 Q4
$12,000,000.00	776	WM Corporate Services Inc.	FY13 Q4
$27,000,000.00	300	Go Daddy	FY13 Q4
$41,000.00	25	Lovitt & Touche	FY13 Q4
$617,000.00	240	Suntec Concrete	FY13 Q4
$11,000,000.00	141	Garmin International, Inc.	FY13 Q4
$0.00	150	Northern Arizona Healthcare	FY13 Q4
$0.00	14	Continental Residential Investments, LLC	FY13 Q4
$38,675,000.00	40	Preferred Sands Processing	FY13 Q4
$16,291,562.00	26	Shamrock Foods Company	FY13 Q4
$54,000,000.00	27	CableOne, Inc.	FY13 Q4
$18,500,000.00	314	JP Morgan Chase & Co.	FY13 Q4
$6,000,000.00	45	US Foods, Inc	FY13 Q4
$94,000,000.00	200	Grand Canyon University	FY13 Q4
$7,000,000.00	6	Nestle Purina PetCare Company	FY13 Q4
$1,252,847,541.00	15262		

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