Preliminary assessment of statutory compliance of 4A and 4B Economic Development Corporations in Texas with the Development Corporation Act of 1979

By

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An Applied Research Project
(Political Science 5397)
Submitted to the Department of Political Science
Texas State University
In Partial Fulfillment for the Requirements for the Degree of
Masters of Public Administration

Spring 2009

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Abstract

This paper is a preliminary assessment of compliance of Texas 4A and 4B economic development corporations against the Development Corporation Act of 1979[1]. This research reviews scholarly literature to examine the definition, theories and process of economic development. This paper evaluates the economic development process at federal, state, and local government, focusing on local economic development to estimate compliance. A framework that links economic theory to practice of economic development is established through a review of related law. The practical focus of the research is on allowable and non-allowable projects undertaken by Texas 4A and 4B economic development corporations. Preliminary findings of a Texas 4A and 4B economic development corporations survey, suggest a level of non-compliance that merits further research and possible changes to the law to establish an oversight mechanism.

[1] Effective April 1, 2009 the Development Corporation Act will be codified as Texas Local Government Code, Title 12, Subtitle C1, Chapter 501, 502, 504, and 505.

About the Author

Magdalena Blanco has over 17 years of public service and over 4 years of work experience in the public sector. She began her work in public service and leadership in 1989 with the San Dieguito Boys & Girls Club Griset Branch in San Diego, California. Her public sector work experience began in 2004 at the Texas Commission on Environmental Quality as a Contract Finance Analyst.

In 2006 she joined the Economic Development and Tourism Division at the Governor's Office as a Public Finance Program Manager. In November of 2008, Magdalena joined the Texas Comptroller's Office as an Analyst in Local Government Assistance and Economic Development.

Magdalena specializes in the economic development sales and use tax, finance, accounting, budgeting, government information systems, management processes and other general public administration areas.

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Chapter 1: Introduction

Government entities have been participating in economic development projects since the 1930s. Texas has initiated economic development projects since the 1970s. In 1979, economic development legislation gave Texas cities the power to form development corporations (Economic Development Corporations) to promote economic development activities. During the 1980s, Texas faced an economic downturn, due in part to a national savings and loan crisis[2]. During this time two major economic challenges were access to liquidity and credit, and availability of loans. During the late 1980s through the early 1990s, the Texas legislature revisited the 1970s legislation and provided participating corporations with a secured revenue method that could only be used to promote specific economic development projects within the community. This new revenue source was known as the economic development sales and use tax, or the 4A tax and 4B tax.

Economic Development Sales and Use Tax (4A and 4B)

The economic development sales and use tax is the largest and most effective local revenue source for economic development in Texas (TEDC 2008). There are two components to the tax, a 4A tax and a 4B tax. The 4A sales tax funds economic development projects that promote new and expanded industrial and manufacturing activities (Shrader and Cline 2003). As of August 31, 2007, 217 cities in Texas had adopted the 4A tax (CPA 2008). Revenue generated through this tax funds projects for:

[2] Visit http://useconomy.about.com/od/grossdomesticproduct/p/89_Bank_Crisis.htm

- industrial and manufacturing facilities
- research and development facilities
- recycling facilities
- distribution centers
- small warehouse facilities
- military facilities
- job training
- targeted infrastructure
- regional/national headquarters facilities
- business airport facilities

The 4B tax promotes a wide range of civic and commercial projects (OAG 2008). As of August 31, 2007, 435 cities in Texas had adopted the 4B tax (CPA 2008). Revenue generated through this tax funds the same projects allowed under the 4A tax, and park related facilities, professional and amateur sports and athletic facilities, tourism and entertainment facilities, affordable housing, and other improvements or facilities that promote new or expanded business enterprises that create or retain primary jobs. Benefits associated with the 4A and 4B taxes differ depending upon the size of the sponsoring city. Rural communities better compete with larger cities by attracting businesses that create jobs, infuse capital, and stimulate the local economy. Other benefits include improvement of the quality of life, reduced property tax, and expansion of tourism.

Scenario

In 2006, the Texas Governor's Office began a compliance review of the Texas Leverage Fund[3] loan portfolio. This portfolio consisted of approximately 25 loans to various 4A[4] and 4B[5] economic development corporations throughout the state. The loans were secured by the corporation's economic development sales and use tax revenue, and the loans could only be used to fund allowable projects as specified in the

[3] The Texas Leverage Fund is a loan program available only to 4A and 4B corporations.
[4] Effective April 1, 2009 Section 4A will be known as Type A. For further information visit http://www.texasahead.org/lga/econdev.html
[5] Effective April 1, 2009 Section 4B will be known as Type B.

Development Corporation Act of 1979[6]*. For example, a North Texas 4A corporation used their tax revenue to rehabilitate a historic 1911 T and P railroad depot visitor center and transportation museum. The project included building an outdoor pavilion with public facilities that were ADA*[7] *accessible and a parking area that accommodate tour buses and recreational vehicles. This 4A corporation received special voter approval to undertake this "4B type project".*

A majority of the funded projects in the portfolio included the purchase of land for infrastructure improvements such as a new hospital, an industrial park, and public parks and open space venues. The Development Corporation Act (Act) allows these types of projects. However, one corporation in the Lower Rio Grande Valley region used their 4A tax revenue to secure a loan through the Texas Leverage Fund program to undertake a project for the beautification of the city and for the construction and expansion of city managed projects. By undertaking this type of project, the economic development corporation was not in compliance with the Act.

The Governor's Office[8]*, conducted an extensive audit and investigation which resulted in further evidence that the economic development corporation and the city had spent tax revenue in ways legislators never envisioned. The Governor Office staff working on the audit became convinced that other economic development corporations in the state may also not be in compliance with the Act. Additionally, staff discovered two cases in which a North East Texas economic development corporation used their*

[6] Effective April 1, 2009 the Development Corporation Act will be codified as Texas Local Government Code, Title 12, Subtitle C1, Chapter 501, 502, 504, and 505.
[7] American with Disabilities Act
[8]Magdalena Blanco was an employee of the Governor's Office from 2006-2008 where she administered the Texas Leverage Fund Program, conducted the audit and subsequent follow-up with the communities, and became concerned of other potential economic development corporations being in non-compliance with the law.

4A/4B sales tax revenue to build a new fire station and city hall. These projects did not fall within the definition of economic development as defined by the Act.

Research Purpose

The purpose of this research is to preliminarily assess statutory compliance of 4A and 4B economic development corporations in Texas against the Development Corporation Act (DCA) of 1979. This purpose is threefold. First, the literature provides an overview of economic development at the different levels of government based on various theoretical and practical standpoints. Second, a review of the Development Corporation Act provides the foundation of allowable projects undertaken by 4A and 4B corporations. Third, survey research of existing 4A and 4B corporations is used to assess statutory compliance. This research is important because there is currently no formal mechanism to monitor the activities of 4A and 4B economic development corporations.

Chapter Summaries

This paper is divided into six chapters. Chapter two describes economic development at the various levels of government. Chapter three describes the allowable projects that 4A and 4B corporations may initiate. Chapter four describes the methodology used to evaluate compliance of 4A and 4B Corporation's compliance with the Act and the projects' Operationalization. Chapter five is the results section and summarizes the survey results and how they relate to the overall research purpose. Chapter six concludes by summarizing the research findings and providing recommendations based upon the analysis of the results.

Chapter 2: Economic Development

Chapter Purpose

The purpose of this chapter is to provide an overview of economic development at various levels of federal, state, and local government[9].This chapter defines economic development and its use in state and local government.

Economic Development

Definition

Based on a review of the literature, scholars define economic development in various ways using different concepts. Malizia and Feser (1999) define economic development as economic growth. Economic development simply means the wise application of public policy which increases United States competitiveness (Malizia and Feser 1999, xi). Bingham (1993) provides the definition by the American Economic Development Council (AEDC) as:

> *Economic Development:* The process of creating wealth through the mobilization of human, financial, capital, physical, and natural resources to generate marketable goods and services.

Bingham (1993) explains that this definition ignores many important issues, such as the role of the public and private sectors in the process of creating wealth, and more importantly, how that wealth is distributed. Malizia and Feser (1999) also support Bingham's position. They add that the definition does not address the serious issue of developers using scarce public resources to move jobs from one place to another.

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[9] For other Texas State Applied Research Projects on economic development related topics see Quintero (2006), Sparks (2007), Alvarado (2008), and Lewis (2006).

The International Economic Development Council (IEDC) mirrors the AEDC definition, yet adds that no single definition incorporates all the different components of economic development. The IEDC[10] describes economic development as the creation of jobs and wealth, and the improvement of quality of life. Additionally, economic development is a process that influences the growth and restructuring of an economy to enhance the economic well-being of a community; which in the broadest sense encompasses three major areas:

1. Policies that government undertakes to meet broad economic objectives including inflation control, high employment, and sustainable growth.
2. Policies and programs that provide services including building highways, managing parks, and providing medical access to the disadvantaged.
3. Policies and programs explicitly directed at improving the business climate through specific efforts: business finance, marketing, neighborhood development, business retention and expansion, technology transfer, real estate development, and others.

Various definitions of *economic development* have influenced development practice, usually without being explicitly connected to their theoretical basis (Malizia and Feser 1999, 12). Subsequently, Shaffer (1989) presents *economic development* as a multi-dimensional concept that incorporates more than just market values. This concept includes the equity and well-being of and the community's ability to adapt to change. Theories used by economic developers determine, either explicitly or implicitly, how these developers understand economic development, the questions they ask about the process, the information they collect to analyze development, and the development strategies they pursue (Malizia and Feser 1999, xii).

[10] International Economic Development Council, Economic Development Reference Guide 2000, visit website at http://www.iedconline.org/?p=ED_Reference_Guide

History

Economic development as a public sector activity in the United States has been around since the 1920s. Robert Mier and Joan Fitzgerald (1991) identify three phases of economic development which began with state efforts to attract industry to the South during the 1930s (Bingham 1993). United States economic development effectively began in 1937 in Mississippi with the issuance of the first industrial development bond (Bingham 1993, vii).

The "Great Society" programs of the 1960s were designed to eliminate "pockets of poverty" in center-city ghettos, declining rural areas, and depressed regions (Malizia and Feser 1999, 5). The Economic Development Administration (EDA) was established during the 1960s to attack poverty and unemployment through planning and technical assistance; grants; and loans to localities (Malizia and Feser 1999) at the same time concern about local economic development was confined principally to those regions and localities considered outside the mainstream of national economic growth (Fosler 1991, xv). The Southern U.S., including Appalachia was among such areas, which had not experienced the rate of economic growth that characterized the national industrial economy (Fosler 1991, xv). The federal, state, and local programs during this era provided subsidies to impoverished individuals and regions as a way to immediately raise income and stimulate economic activity; with an emphasis on broadening economic opportunity through education, job training, social services, and community development (Bingham 1993, viii).

Throughout the 1970s, the practice of economic development increasingly became a local activity, with attempts to forge links between federal employment, social service, small business development, and economic development programs. States and localities took steps to address fiscal stress based on local economic base growth due to decline, stagnation, or readjustment problems (Malizia and Feser 1999). During the 1980s local economic development remained a concern. At the time, the national wave of less government regulation and more privatization of public services boomed, and the primary concern of economic development became the competitiveness of the U.S. economy within the global system.

By 1990, the nation was entering a recession and confronting major governmental structural weaknesses. The federal budget deficit pushed the national debt to more than two trillion dollars. Also, there was an inadequate workforce, and widely uneven economic performance among regions and localities as well as among economic classes (Fosler 1991). During this time, economic development as an established concept was carried out either by public agencies or non-profit organizations. Government focused on promoting economic growth and development for the entire community (Malizia and Feser 1999).

Theories

By the 1990s, no theory or set of theories adequately explained regional or local economic development; however, elements of several theories may help explain the underlying rationale for local economic development (Fosler 1991).

Economic Base Theory

Economic base theory was originally developed as a practical technique for evaluating a local economy. Proponents of economic base theory postulate that a community's economic growth is directly related to the demand for its goods, services, and products from areas outside local economic boundaries (Blakely and Bradshaw 2002). This theory's major strengths are (1) its popularity as a basis for understanding economic development in North America, and (2) its simplicity as a theory or tool for prediction (Malizia and Feser 1999). Implementation of this model includes measures to reduce barriers for export-based firms in an area, such as by providing tax relief, and subsidy of transport facilities, and telecommunications (Blakely and Bradshaw 2002).

Neoclassical Theory

Neoclassical theory offers two major concepts pertaining to regional and local economic development: *equilibrium* of economic systems and *mobility* of capital. These concepts assert that all economic systems reach a natural equilibrium if capital can flow freely (Blakely and Bradshaw 2002). Neoclassical growth theory suggests that economic developers should respect the free market and do what is necessary to support the efficient allocation of resources and the operation of adequate product pricing (Malizia and Feser 1999, 25)[11].

Local Economic Development Theory

No theory or set of theories adequately explain regional or local economic development, but based on the equation presented below the underlying basis of local and regional development is the community's capacity[12] and its resources[13].

$$\text{Local and regional development} = c \times r,$$

[11] Malizia & Feser present an overview of economic development theories in *Understanding Local Economic Development* 1999
[12] An area's capacity consists of economic, social, technological and political capacity (Blakely & Bradshaw 2002)
[13] Resources consist of natural resource availability, location, labor, capital investment, entrepreneurial climate, transport, communication, industrial composition, technology, size, export market, international economic situation, and national and state spending (Blakely & Bradshaw 2002)

From the equation above, *c* equals an area's capacity and *r* equals its resources (Blakely and Bradshaw 2002, 56).

A *c* value of one represents a neutral capacity that neither adds to nor detracts from the resources of a community. A value greater than one represents a strong capacity that, when applied to (multiplied by) resources, increases them; and a value less than one represents weak community capacity (low-functioning social, political, and organizational leadership) (Blakely and Bradshaw 2002). Hence, Blakely and Bradshaw use Robinson's (1989) local economic development model. An example of how a community's capacity and its resources are measured and calculated is described in Figure 2.1 (Robinson's two prong models). The model represents both economic and community development initiatives.

Figure 2.1: Two Approaches to Local Economic Development Policy

Two Approaches to Local Economic Development Policy

Dimension	*Corporate Center Approach*	*Alternative Approach*
Public and private sector	Primacy of private sector market decisions = private sector lead	Private sector market decisions influenced by public sector interventions = public sector
	Public sector responsible for creating an economic and social climate conducive to private investment	Public sector responsible for guiding private investment decisions so they generate desired economic development outcomes
Public sector planning	Objectives favoring growth and tax base expansion	Objectives favoring the creation of direct benefits for low-income and ethnic minority residents
	Planning processes that are relatively inaccessible to low-income and ethnic minority groups	Planning processes that are relatively accessible to low-income and ethnic minority groups
Public sector interventions	Public resources provided as a means of accommodating needs of private industry	Public resources provided conditionally as a means of ensuring specific economic development alternatives
	Intervention in areas likely to generate growth (e.g., attraction of businesses from outside the city)	Intervention in areas likely to produce direct benefits for low-income and ethnic minority residents (e.g., retraining of displaced workers)
	Targeting of growth sectors (e.g., advanced services, high tech, tourism)	Targeting of growth sectors and sectors able to meet important economic needs
	Targeting of headquarters and branch plants	Targeting of locally owned establishments
	Concentration of projects in central business districts and surrounding areas	Decentralization of project locations
	Emphasis on the creation of jobs for white-collar and highly skilled workers	Emphasis on the range of local labor needs, including those of underemployed, unskilled, and blue-collar workers

SOURCE: Robinson (1989, p. 285). Reprinted by permission of the *Journal of the American Planning Association*.

Incentives

Incentives are essential to effective economic development and should be used in a prudent and rational manner to assist businesses (Perryman 2006). Incentives should be carefully crafted in order to maximize return on investment. The goal of local government is to develop the local economy and contribute to the quality of life for residents (Bartik 2003). In an effort to promote this goal, local governments must establish incentive packages. Some of the most common incentives include tax abatement, tax increment financing, industrial development revenue bonds, and loan guarantees (Lester 2005, 15).

Tax abatement is designed to achieve specific economic goals, such as attracting business and industry, stimulating local employment and improving the local economy (Lester 2005). Businesses are not required to pay certain taxes for a specified amount of time when provided with tax abatement. This form of incentive is the most frequently used by local governments who maintain control over many aspects of property taxes (Lester 2005).

Tax Increment Financing (TIF) is another incentive widely used by state and local governments. Government administrators use TIF primarily as a way to finance public investments and infrastructure improvements needed for economic development in specific geographic areas (Johnson and Man, 2001, 1). A TIF program freezes the assessed valuation of all property parcels in a designated area (the TIF district) for a specific period of time (Johnson and Man, 2001, 1). This funding technique was first used in California in 1952, and since that time, forty-eight states have passed laws authorizing the use of TIF by local governments (Lester 2005).

Industrial Revenue Bonds (IRB) are issued by state and local governments on behalf of individual corporations and businesses for economic development projects (Lester 2005). Loan guarantees operate primarily through private lenders, and offer advantages over direct loan programs. Loan guarantee program can function on a more efficient "wholesale" level without negotiating transactions on an individual basis with borrowers (Lester 2005).

Compliance

In South Carolina, the disbursement of the accommodations tax revenue is poorly monitored and even if a local government is caught using funds improperly, that local government's future revenues are merely withheld until the improperly allocated funds are replaced (Blackwell 2006). Examination of this tax revenue program revealed that fiscal substitution of earmarked taxes is non-compliance with South Carolina accommodations tax laws (Blackwell et al 2006).

Statutory compliance and regulation of a corporation is essential in order to eliminate adverse effects, as in the case of South Carolina. Interestingly, limited literature exists regarding earmarked tax compliance and most literature discusses individual tax compliance. According to Andreoni, Erard, and Fainstein (1998) U.S. taxpayers who understate their tax liabilities are subject to civil or criminal penalties. The question then becomes, "What happens to a governmental unit who utilizes tax revenue for purposes other than those specified in the law?" Typically, proof of wrongdoing is subjective and left to interpretation. Bali (2003) stated that little is known about how local institutions comply with a new mandate (law) that originates from the citizens. There is a lack of empirical research on the subject of statutory compliance by local governments outside of narrowly focused regulatory agencies and laws.

Federal Government

Federal economic development efforts during the 1960s sought to stimulate development in depressed areas (Bingham 1993). For example, in 1961, the Area Redevelopment Administration (precursor to the EDA) was established under the Department of Commerce with the purpose of providing technical assistance, loans, and grants to local governments for public projects, particularly those that would attract private businesses. During the 1960s, the national economic development goal was to improve equity and increase demand through redistribution (Bingham 1993, viii).

In the United States, economic development efforts are primarily carried out by state and local governments, because the United States does not pursue a national industrial policy (Eberts 2002). However, the United States does provide some support for local efforts, primarily targeting economically distressed areas. The federal government has typically backed away from supporting economic development efforts because it does not see its role as assisting one region at the expense of another. In fact, the federal government has restricted its role to certain specialized functions, such as providing technical and planning assistance to economically distressed areas, funding public infrastructure investment in those areas, providing technical assistance for businesses through universities and private service providers, and promoting export trade (Eberts 2002, 24).

The Economic Development Administration[14] (EDA) of the U.S. Department of Commerce is the primary federal agency responsible for carrying out economic development efforts in economically distressed areas. The EDA's mission is to further the federal economic development agenda by promoting innovation and competitiveness, and preparing American regions for growth and success in the worldwide economy. The EDA maintains a variety of programs to assist economically distressed areas through direct funding, local technical assistance, public infrastructure development, and economic and trade adjustment programs (Eberts 2002, 25).

The role of the EDA is to target its investment assistance by attracting private capital investment and creating higher-skilled, higher-wage jobs in those communities and regions that are suffering from economic distress, as described in Code of Federal Regulations Title 13, Section 301.3[15]. The EDA focuses investments on locally-developed, regionally-based economic development initiatives that achieve the highest return on the taxpayers' investment and that directly contribute to growth of the economy. Outlined below are the investment programs that the EDA manages:

- *Public Works Program:* Empowers distressed communities to revitalize, expand, and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies, and generate or retain long-term, private sector jobs and investment.
- *Economic Adjustment Program:* Assists state and local interests in designing and implementing strategies to adjust or bring about change to an economy. The program focuses on areas that have experienced or are under threat of serious structural damage to the underlying economic base.

[14] Visit the Economic Development Administration's Website at http://www.eda.gov/
[15] To view the Code of Federal Regulations, Title 13, visit the website at: http://www.access.gpo.gov/nara/cfr/waisidx_06/13cfr301_06.html

- *Research and National Technical Assistance Program:* Supports research of leading edge, world class economic development practices and information dissemination efforts.
- *Local Technical Assistance Program:* Helps fill the knowledge and information gaps that may prevent leaders in the public and nonprofit sectors in distressed areas from making optimal decisions on local economic development issues.
- *Partnership Planning Program:* Supports local organizations (Economic Development Districts, Indian Tribes, and other eligible groups) with long-term planning efforts.
- *University Centers Program:* A partnership between the federal government and academia that makes the varied and vast resources of universities available to the economic development community.
- *Trade Adjustment Assistance Program:* A national network of eleven Trade Adjustment Assistance Centers to help manufacturers and producers affected by increased imports prepare and implement strategies to guide their economic recovery.

A local government that submits an investment application is evaluated on its ability to meet or exceed the following investment policy guidelines:

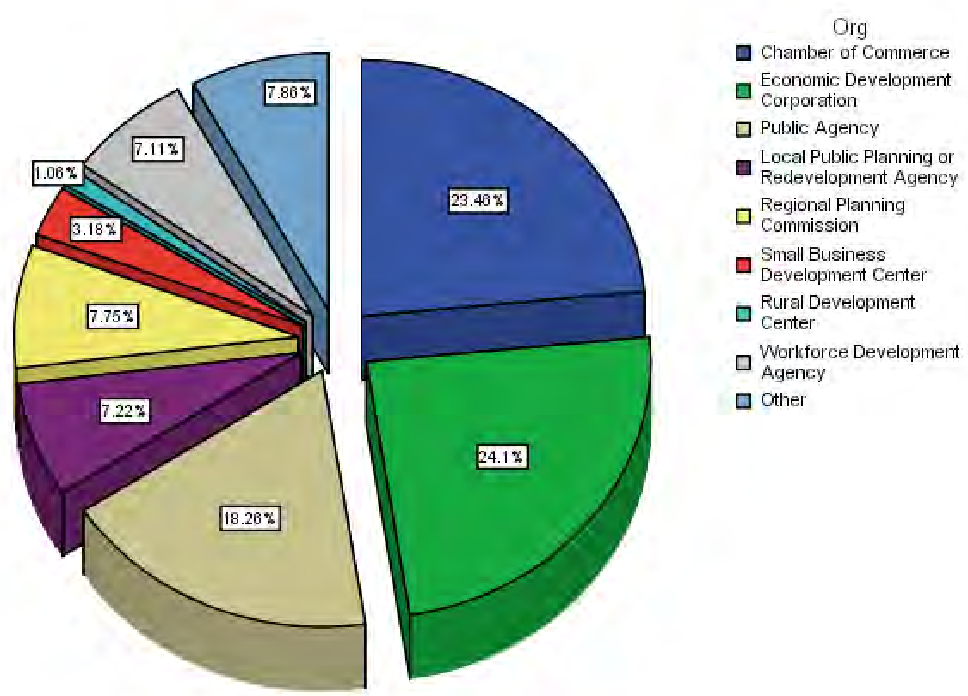
- *Be market-based and results-driven:* Capitalize on a region's competitive strengths and positively move a regional economic indicator as measured on EDA's Balanced Scorecard, such as: an increased number of higher-skilled, higher-wage jobs; increased tax revenue; or increased private sector investment.
- *Have strong organizational leadership:* Strong leadership, relevant project management experience, and a significant commitment of human resources talent to ensure a project's successful execution.

The EDA investment programs are highly competitive but available to all local governments across the nation. This level of access promotes the EDA's purpose of not favoring one region over another. In 2007, the EDA funded a study on regionalism and clusters for local development. The study was designed to develop and distribute a curriculum that would enable practitioners to better understand and apply core concepts of regionalism and industry cluster development (EDA 2007). The study developed a curriculum capable of giving economic development practitioners, workforce development specialists, and education planners the knowledge and tools to capitalize on regional assets, foster economic links spanning jurisdictions, and promote regional economic development initiatives. Communities which promote clustering through their development strategies benefit from increased efficiency for regional industries as firms reap the externalities created by other firms (EDA 2007). These externalities include enhanced technology transfer and "spin-offs", which facilitate the agglomeration necessary to spur further development (EDA 2007, 3).

Figure 2.2 represents the importance of economic development corporations, which are discussed later in this chapter. Economic development corporations made up 24.1 percent of all respondents in the EDA's needs assessment study.

Figure 2.2: EDA Regionalism and Clusters for Local Government Needs Assessment[16] Study-Distribution of Respondents

The 942 respondents who participated in this survey represent 669 counties and every state in the nation, including the District of Columbia.



Source: EDA Needs Assessment Study 2007

[16] To read the entire Economic Development Administration's Needs Assessment visit: http://www.eda.gov/PDF/EDANeedsAssessment.pdf

State Government

Economic development efforts and programs at the state level vary widely from state to state. Some states have agencies that handle all economic development efforts, others have agencies that only provide support and no funding, and yet others have regional state offices that provide funding and assistance. State level economic development agencies, like other organizations, face significant choices about the allocation of resources, direction of programs, and organization of people as they develop approaches to the problems that they define as important (Bacheller 2000, 5). State level economic development agencies play a large role in providing technical assistance, political clout, and public funds to assist in attracting businesses from outside the state and to retain existing businesses (Eberts 2002). Encouragement of economic development efforts is done in a variety of ways at the state level.

New York

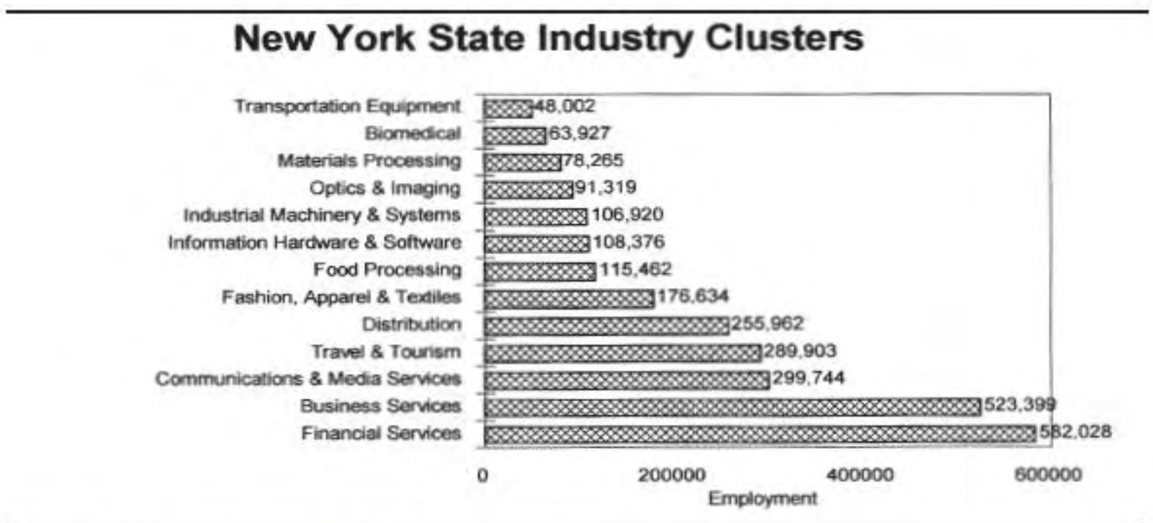
New York has a state agency that handles all state level economic development efforts. The state devotes a portion of its financial resources to economic development by appropriating funds to the state agency in charge of economic development the Empire State Development Corporation (ESDC)[17] (Bacheller 2000). New York established the ESDC for the purpose of developing better programs to retain and expand businesses. In order to develop better programs, the ESDC analyzed New York's industry clusters and found that the five most traded clusters are services (financial

[17] Visit the Empire State Development Corporation website at http://www.empire.state.ny.us/

services, business services, communications and media services); travel and tourism; distribution; and fashion, apparel and textiles (Bacheller 2000).

The ESDC identified 13 clusters, ranging from financial services with nearly 600,000 jobs, to transportation equipment with 48,000 jobs (Table 2.2) (Bacheller 2000, 7).

Figure 2.3: New York State's Key Industry Clusters



New York State Industry Clusters
SOURCE: Empire State Development Corporation, Policy and Research division.

According to Blakely and Bradshaw (2002), the industrial clusters concept is a new tool to assist economic developers with nurturing growing economies. A cluster is more than just the largest firms in a local area; a cluster is the network of interrelated firms that buy and sell from the same suppliers, share markets, and are supported by a common specialized infrastructure (Blakely & Bradshaw 2002, 139).

New York has identified various industry clusters defined as firms in related industries that: are geographically concentrated in a particular region; gain a competitive advantage because of their proximity to each other in the region; share specialized supplier and buyer (marketing) advantages because of their location; and are supported by advantageous infrastructure in the region, such as physical resources (e.g., a port or access to minerals), educational and research advantages (e.g., universities), financial institutions (e.g., venture capital), and labor advantages (e.g., training programs).

Michigan

Michigan State has a state economic development agency called the Michigan Economic Development Corporation (MEDC)[18], which is a quasi-public organization with a private-sector board of directors that controls public funding. So, instead of elected officials overseeing publicly funded projects, business leaders, as members of the board of MEDC, manage the expenditure of government dollars. MEDC receives its funding from the Michigan state government general fund and from a separate, state revenue-funded Michigan Strategic Fund (Eberts 2002). The MEDC has created partnerships with local economic development agencies for the purpose of mobilizing resources and providing state funds to local projects in order to encourage economic development throughout the state (Eberts 2002).

Illinois

Illinois State uses a central state agency, the Department of Commerce and Community Affairs (DCCA)[19], to manage its economic development efforts. To better fulfill the DCCA function of promoting economic development planning and implementation, the DCCA split the state into regions (Gordon 2007). The regions (see

[18] Visit the Michigan Economic Development Corporation website at http://www.michiganadvantage.org/
[19] For additional information on Illinois State's Economic Development Organization visit the website at: http://www.commerce.state.il.us/dceo/

Table 2.3) are based on geographical, economic, labor, transportation, infrastructure, technologic, education, population, and housing similarities and differences (Gordon 2007). The creation of the regions was essential in reducing inequities of smaller communities and their ability to compete due to a lack of capacity to implement comprehensive economic development efforts (Gordon 2007, 62). Through the regional focus, communities have equal access to prospects, grants, and programs. The underlying rationale for the regionally focused economic development process is that the process provides benefits that spill over from one community to another (Gordon 2007).

Figure 2.4: Illinois State Economic Development Regional Map

Source: Illinois Biz 2009

Texas

Texas abolished its state economic development agency in 2003 and transferred the majority of its duties to the Texas Economic Development and Tourism Office (EDT) within the Office of the Governor[20]. This newly formed office is a public organization that manages a non-profit corporation with a private sector governor appointed board of directors. EDT is responsible for: marketing and promoting the state as a premier location; facilitating the location, expansion, and retention of domestic and international business investment; promoting and administering business and community economic development programs and services, including business incentives; providing export assistance on products and services to international markets; establishing self as the central source of economic research and information; and establishing a statewide strategy to address economic growth and quality of life issues, a component of which is based on the identification and development of industry clusters

EDT receives its funding from the Texas State general fund and through the collection of program fees. Furthermore, EDT manages and administers two statewide development programs; the Texas Enterprise Fund[21] and the Texas Emerging Technology Fund[22]; and several community and business development programs[23]. These programs include the Texas Leverage Fund, Product Development and Small Business Development Fund, Texas Industry Development Program, and the Enterprise Zone Program[24]. A variety of state agencies also administer economic development programs and services. These agencies include the Texas Comptroller of Public

[20] For additional information on the Texas Economic Development and Tourism Office visit the Governor's website at http://governor.state.tx.us/ecodev/
[21] For more information on the Texas Enterprise Fund visit http://governor.state.tx.us/ecodev/financial_resources/texas_enterprise_fund/
[22] For more information on the Texas Emerging Technology Fund visit http://governor.state.tx.us/ecodev/financial_resources/emerging_technology_fund/
[23] For more information on community and business development programs visit http://governor.state.tx.us/ecodev/financial_resources/loan_assistance/
[24] For more information on the Enterprise Zone Program visit http://governor.state.tx.us/ecodev/financial_resources/tax_incentives/

Accounts[25], Texas Historical Commission[26], Office of Rural Community Affairs[27], Texas Department of Agriculture[28], and the Texas Parks and Wildlife Department[29].

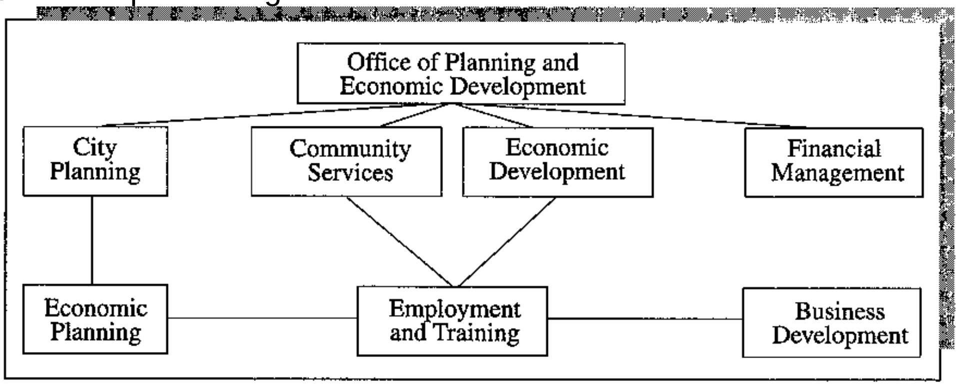
Local Government

Local economic development has become a popular concept over the last 20 years. One reason is that more local, regional, and state economic development institutions are being formed to address national economy issues at the local level (Blakely & Bradshaw 2002). Local government economic development efforts and programs vary widely and are administered by a variety of organizations. These organizations consist of cities; counties; chambers of commerce; public and private non-profit organizations; community colleges; and universities (Bartik 1995).

There are three general types of development organizations. First, there are *government agency* (Figure 2.5) development organizations. These agencies are components of or complete delegate agencies of city government (Blakely & Bradshaw 2002, 347). Each type of economic development organization has its advantages and disadvantages. The major advantage of the government agency is its connections to the political system and, as such, its access to the political resources of local, state, and federal governments. The government agency's chief disadvantage is the persistent delays of government bureaucracy. In local development planning, where speed is essential, this could be a fatal flaw unless local government genuinely supports the agency through city council actions.

[25] Texas Comptroller of Public Accounts: http://www.texasahead.org/ and http://www.window.state.tx.us/
[26] Texas Historical Commission: http://www.thc.state.tx.us/aboutus/abtchd.shtml
[27] Office of Rural Community Affairs http://www.orca.state.tx.us/
[28] Texas Department of Agriculture http://www.tda.state.tx.us/
[29] Texas Parks & Wildlife Department http://www.tpwd.state.tx.us/business/grants/

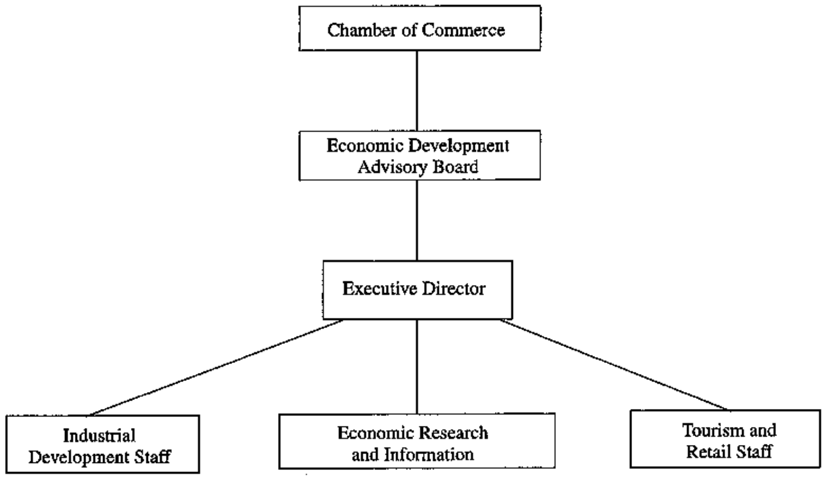
Figure 2.5: Development Organization as a unit of Local Government



Model Structure of Development Organization That Is a Unit of Local Government

Second, there are *private development associations* (Figure 2.6), which are sponsored by local/regional businesses and operate with the permission or endorsement of local government. These are private bodies usually affiliated with, or a component of, chambers of commerce, manufacturers, or related entities (Blakely and Bradshaw 2002, 347). Private development corporations can act quickly, but they are bound by limited interests. Generally, they are concerned only with the promotion of existing private business and with the real estate and investment opportunities associated with new firms (Blakely & Bradshaw 2002). Private organizations seldom involve themselves in wider employment and community welfare activities.

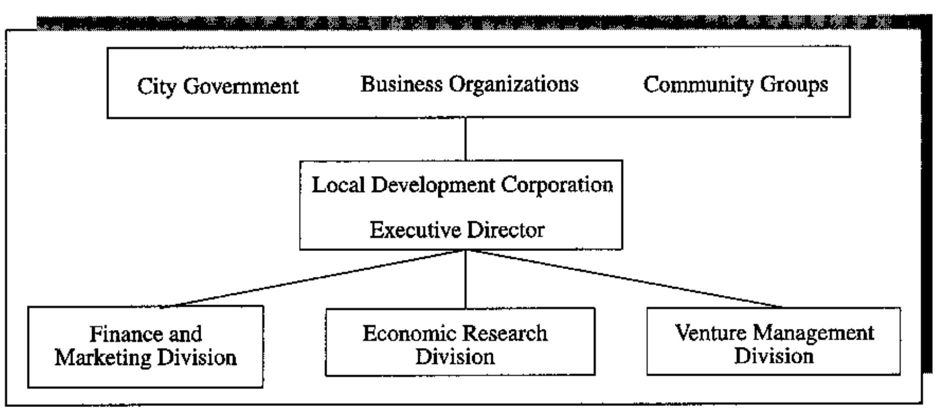
Figure 2.6: Private Development Organization Model



Private Development Organization Model

Finally, there are *local development corporations* (Figure 2.7) that act as semi-independent bodies that coordinate and manage development projects for or with the local government (Blakely and Bradshaw 2002). Local development corporations are the most common form of organization because they continue to enjoy both government and private financial support.

Figure 2.7: Local Development Corporation Model



Local Development Corporation Model

The economic development corporation is an excellent vehicle that should enjoy strong support from both the public and the private sectors (Weaver 1986). The most important feature of the local development corporation model is that it can perform all of the tasks local government delegates to it while acting as a private body. For example, it can:

- Administer development funds from both public and private sources,
- Manage industrial estates or commercial facilities for the government,
- Operate parking facilities and other services as joint public-private ventures,
- Enter into contracts and borrow funds for various development projects,
- Engage in marketing and promotion activities,
- Provide "one-stop" business service,
- Act as a small business assistance center,
- Provide marketing and technical assistance for local firms, and
- Sponsor industrial and commercial attraction efforts.

Economic development corporations take the lead in business attraction and retention by interacting with business and governmental entities and garnering the greatest return on investment (Eberts 2002). The goal of local governments is to develop the local economy and contribute to the quality of life of the residents (Bartik 2003). Some examples of successful economic development at the local level are briefly described below.

Battle Creek Michigan

The City of Battle Creek, Michigan established the Battle Creek Unlimited (BCU)[30] development corporation in 1971 as a private non-profit organization whose purpose was to assist in revitalizing the city's economy. The BCU acquired over 3,000 acres from a closed military base and turned it into Michigan's largest industrial park (Bartik

[30] To learn more about Battle Creek Unlimited visit the web site at: http://www.bcunlimited.org/home

2003, 14). The BCU uses property tax revenue generated from the industrial park to fund economic development activities and programs (Eberts 2002). The BCU is an example of the effective use of economic development policies specifically designed to leverage private resources through the cooperation of different groups in the local labor market area to revitalize the local economy (Bartik 1995).

Cleveland Ohio

The City of Cleveland, Ohio established the Westside Industrial Retention and Expansion Network[31] or WIRE-Net in 1988 (Bartik 2003). WIRE-Net's purpose was to improve the retention of manufacturing businesses, especially manufacturers with fewer than 100 employees, on Cleveland's west side, and to increase the employment of neighborhood residents in these jobs (Bartik 2003, 23). WIRE-Net's services include: business management, consulting and referrals; assisting manufacturers in finding new sites in the neighborhood; and lobbying the city for improved infrastructure and services. According to the WIRE-Net staff and area firms, the two most significant programs that encourage job retention are: Help Manufacturers Find and Get Approval for New Sites in the Neighborhood as well as Hire Locally (Bartik 2003). Funding for WIRE-Net is provided by the City of Cleveland, the State of Ohio, federal agencies, Cleveland foundations, charitable donations, and membership fees from 150 west side manufacturers (Bartik 2003, 23)[32].

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[31] To learn more about the Westside Industrial Retention and Expansion Network visit the web site at: http://www.wire-net.org/

[32] Local Economic Development Policies- Upjohn Institute Staff Working Paper No. 03-91; by Timothy J. Bartik http://www.upjohninst.org/publications/wp/03-91.pdf

Texas Cities

Most Texas cities define local economic development as *attracting new business and industry* to the community and *expanding existing business and industry* (Weaver 1986). Traditional theory holds that a healthy local economy is beneficial to local government because it produces a growing tax base and, therefore, a growing source of municipal revenues (Weaver 1986).

In Texas, local governments have statutory authority to form nonprofit corporations (4A and 4B Economic Development Corporations[33]) to promote the creation of new and expanded industry and manufacturing, industrial and commercial, and/or retail activities through the imposition of local sales and use tax (Smith 2005). The Development Corporation Act (DCA) of 1979 authorizes these programs.

Development corporations are separate corporate entities with a board of directors appointed by the founding municipality (Smith 2005, 24). The municipality's city council appoints a five member board of directors to govern 4A corporations (Shrader and Cline 2003). The DCA does not specify qualifying criteria for a person who serves as a director on the board (OAG 2008). The municipality's city council appoints a seven member board of directors to govern 4B corporations (Shrader and Cline 2003). Unlike 4A corporations, the DCA places qualifying criteria for a person who serves as a director on a 4B board.

Economic development programs can be very expensive, and Texas cities use a variety of revenue sources and financing devices to provide the funds necessary to fund

[33] To learn more about 4A and 4B Economic Development Corporations visit the Texas handbook at http://www.oag.state.tx.us/newspubs/publications.shtml . The publication title is the Economic Development Handbook for Texas Cities.

these programs. For example, in 1986 the Institute of Urban Studies at the University of Texas at Arlington conducted a study which showed that thirty eight (97%) of Texas cities with a population over 25,000 had provided direct support to local economic development activities during the past five years using funds derived from one or more of the following sources (Weaver 1986, 25): general local revenues; local hotel occupancy tax receipts; federal and state grants-in-aid; municipal general obligation or revenue bonds; and tax increment district revenues

Funding for 4A and 4B corporations is provided by earmarked tax revenue (4A tax or 4B tax). A city is eligible to adopt the 4A tax if the new combined sales tax rate does not exceed two percent and the city is located in a county with a population of under 500,000; or has a population of less than 50,000 and is located within two or more counties of which one is Bexar, Dallas, El Paso, Harris, Tarrant, or Travis County; or a city under 50,000 population that is within the San Antonio or Dallas Area Transit Authority territorial limits, but has not elected to become part of the transit authority (Shrader & Cline 2003).

A city is eligible to adopt the 4B tax if the combined local sales tax does not exceed two percent and if the city fits one of the following criteria: the city is eligible to adopt the 4A tax; the city is located in a county with a population of 750,000 or more and the current combined sales tax does not exceed 7.25 percent at the time the tax is proposed; the city is located in a county with a population of more than 1,100,000 and the current combined sales tax rate does not exceed 7.75 percent at the time the tax is proposed; or the city has a population of 400,000 or more and is located in more than one county and the combined state and local sales tax does not exceed 8.25 percent (OAG 2008).

Locally based economic development is not a new concept. Local economic development is a process by which local government and/or community groups manage their existing resources and enter into new partnership arrangements with the private sector, or with each other, to create new jobs and stimulate economic activity in a well-defined economic zone (Fosler 1991, 22). No matter what form it takes, local economic development has one primary goal: to increase the number and variety of job opportunities available to local people (Fosler 1991, 23).

Chapter Summary

This chapter provided an overview of economic development at the various levels of federal, state, and local government. The next chapter discusses the allowable project areas by 4A and 4B corporations that this research considered when evaluating compliance with the Act.

Chapter 3: Development Corporation Act of 1979, Section 4A & 4B

Chapter Purpose

The purpose of this chapter is to provide a description of the allowable projects that 4A and 4B corporations can undertake and fund using public tax revenue. The project descriptions fall into three broad categories: Projects for the Creation or Retention of Primary Jobs; Projects for the Promotion or Development of New or Expanded Business Enterprises; and Miscellaneous Projects.

Figure 3.1: Picture of an Economic Development Project, Health Care Building

Source: Greater Waco Chamber of Commerce

Projects for the Creation or Retention of Primary Jobs

Projects are allowed under this category on the condition that they create or retain jobs. To comply with the Act, a 4A and 4B corporation can fund projects for:

- Manufacturing and industrial facilities,
- Research and development facilities,
- Military facilities,
- Recycling facilities,
- Distribution centers,
- Small warehouse facilities,
- Primary job training facilities for use by institutions of higher education, and
- Regional or national corporate headquarter facilities.

Figure 3.2: Picture of an Economic Development Corporation

Source: Richardson Economic Development Partnership

As developers of parks, roads, parking lots, and in some cases, water and electricity supply, local governments influence the establishment and operating costs of businesses by developing programs that upgrade a locality designated for industrial and/or commercial use (Blakely and Bradshaw 2002).

The Development Corporation Act (DCA) defines a primary job as a job that is: (1) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and (2) included in one of the following sectors of the North American Industry Classification System (NAICS) (Table 3.1) or a job that is included in NAICS sector number 928110, National Security, for the corresponding index entries for Armed Forces, Army, Navy, Air Force, Marine Corps, and Military Bases (DCA 1979).

Table 3.1: North American Industry Classification System (NAICS)

NAICS Sector #	Description
111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211-213	Mining
221	Utilities
311-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51 (excluding 512131 and 512132)	Information (excluding movie theaters and drive-in theaters)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417, and 5419	Scientific Research and Development Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions

Manufacturing and Industrial Facilities

A 4A and 4B corporation can promote the expansion and development of manufacturing and industrial facilities (OAG 2008). In the early to mid-1990s, Texas was the leader in the race for new capital investments; job growth; and new and expanding facilities; however by 2001 the state was ranked sixth (behind Michigan, Illinois, California, New York, and Ohio) in the total number of new and expanded facilities (Perryman 2002). As of 2008, the state was ranked third after North Carolina and Tennessee (Dubay & Atkins 2007)[34]. This positive trend is likely due to the favorable business tax climate in Texas. According to the tax foundation's 2008 State Business Tax Climate Index, Texas ranked 8th among the top ten (Dubay and Atkins)[35]. Developing incentives is essential in attracting manufacturing businesses, in which 4A and 4B corporations play a large role.

Figure 3.3: Picture of Manufacturing and Industrial Facility type Project

Source: Picture courtesy of the DeSoto EDC

Research and Development Facilities

Both 4A and 4B corporations may fund research and development facilities (OAG 2008). According to Bartik (2003), certain "market failures" must be identified in order to efficiently increase the productivity of local businesses. These market failures are identified through a process known in the business sector as Research and Development (R&D). A neoclassical viewpoint of Research and Development is as a form of technology or knowledge that has been developed in one organization and transferred to another, where it is adopted and used (Shaffer 2006).

[34] Visit the site selection website at http://www.siteselection.com/issues/2008/no/cover/
[35] See the Business Tax Climate Index by visiting the website at http://www.governorbarbour.com/documents/2008statebusinesstaxclimateindex.pdf

Figure 3.4: Picture of a Research and Development Project

Source: Picture Courtesy of the Rockwall EDC

Military Facilities

A 4A and 4B corporation can help promote or support an active military base, attract new military missions to a military base in active use, or redevelop a military base that has been closed or realigned (OAG 2008). For instance, during the 1970s, Battle Creek, Michigan lost nearly 10,000 export-based jobs after the closure of the Fort Custer Military Base. Through the Battle Creek Unlimited Organization, the city redeveloped the existing military land and attracted over 70 companies and 7,000 jobs to what is now the largest industrial park in Michigan (Bartik 2003).

Transportation Facilities

A 4B corporation can fund projects for airports, hangars, airport maintenance and repair facilities, air cargo facilities, related infrastructure located on or adjacent to an airport facility, ports, mass commuting facilities and parking facilities (OAG 2008). A 4B corporation can also fund hangars, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility, if the project is developed by an economic development corporation created by an eligible city. Eligible cities are those that: (1) that enters into a development agreement with an entity in which the entity acquires a leasehold or other possessory interest from the corporation and is authorized to sublease the entity's interest for other projects authorized by this subdivision; and (2) the governing body of which has authorized the development agreement by adopting a resolution at a meeting called as authorized by law (OAG2008).

Sewage or Solid Waste Disposal Facilities

Only a 4B corporation can fund a sewage or solid waste disposal facility (OAG 2008).

Recycling Facilities

Both a 4A and 4B corporation can fund recycling facilities (OAG 2008).

Air or Water Pollution Control Facilities

Only a 4B corporation can fund an air or water pollution control facility (OAG 2008).

Distribution Centers & Small Warehouse Facilities

Both 4A and 4B corporations can fund a distribution center or a small warehouse facility in cities with access to major airports or ports and in areas that have passed the Freeport exemption (OAG 2008). A Freeport statute allows certain areas to exempt goods remaining in the state less than 175 days for purposes of assembly, storage, processing, manufacturing, or fabrication (Perryman 2002, 149).

Figure 3.5: Picture of a Distribution Center/Small Warehouse facility (left) and available Land (right) for a future economic development project

Source: Desoto EDC

Primary Job Training Facilities

Both 4A and 4B corporations can fund primary job training facilities for any public technical institute, public junior college, public senior college or university, medical or dental unit, or other agency of higher education as defined under Section 61.003 of the Texas Education Code (OAG 2008, 9). For example, North Carolina's Durham Technical Institute's employer-oriented training program provides customized training to new companies re-locating to the state as well as expanding companies. The institute works closely with companies to screen prospective trainees, and the company decides who gets hired based on their training performance (Bartik 1995, 9).

Regional or National Corporate Headquarter Facilities

Both 4A and 4B corporations can fund buildings proposed for construction or occupancy as the principal office for a business enterprise's administrative and management services (OAG 2008).

Public Safety Facilities

Only a 4B corporation can fund a public safety facility (OAG 2008).

Projects for the Promotion or Development of New or Expanded Business Enterprises

Projects allowed under this category are not conditioned upon the creation or retention of primary jobs. To comply with the law, a 4A and 4B corporation may fund projects for job training, and certain infrastructural improvements.

Job Training

4A and 4B corporations can undertake projects that offer job training classes through a business enterprise only if the business enterprise agrees in writing to certain conditions (OAG 2008). The business enterprise must agree to create new jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area, or it must agree to increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area (OAG 2008, 10).

By promoting job training the corporation improves labor quality in a way that responds to business and worker needs (Bartik 1995). Funding job training projects increases the local community's labor force and provides better-paying jobs and investments (Krumholz 1999).

Infrastructural Improvements

4A and 4B corporations may undertake projects for limited infrastructure improvements (OAG 2008).The infrastructure improvements are limited to:

- streets and roads
- rail spurs
- water and sewer utilities
- electric utilities
- gas utilities
- drainage
- site improvements
- telecommunications
- internet improvements, and
- beach remediation along the Gulf of Mexico

New York supports infrastructural improvements through education and research; for instance, the state's economic development corporation has supported a university-based technology development program which is intended to encourage the growth of key technology-based industries (Bacheller 2000). The end result is similar in both Texas and New York, the benefit to the general welfare of the citizens and the creation and/or promotion of new or expanded business enterprises.

Figure 3.6: Picture of an Industrial Park that had infrastructure laid in and the site improved

Source: City Development Corporation of El Campo

Miscellaneous Projects

This section describes the specific projects that 4A and 4B corporations may undertake. A 4A corporation can only undertake career center projects, while a 4B corporation can undertake projects for:

- Career Center
- Professional and amateur sports and athletic facilities
- Entertainment, tourist and convention facilities
- Public parks and related open space improvements
- Affordable housing
- Water supply facilities
- Water conservation programs

Culture, recreation, and community appearance are integral to development planning (Blakely and Bradshaw 2002). For example, projects that build the self-esteem and identity of youth can significantly alter a community's social and economic climate. These aspects of a project, which enhance the total livability of an area, should be documented under the heading community improvement (Blakely and Bradshaw 2002).

Career Centers

Both 4A and 4B corporations can undertake certain career centers deemed by the board of directors required or suitable for use if the target area is not located in the taxing jurisdiction of a junior college district (OAG 2008).

Figure 3.7: Picture of a Career Center

Source: Houston Independent School District Carter High School

Professional and Amateur Sports and Athletic Facilities

A 4B corporation can undertake professional and amateur sports and athletics facility projects, which include stadiums and ballparks (OAG 2008). Rosentraub (2006) found that publicly financed sports facilities had a negative impact on regional economies as a result of higher levels of public debt associated with government funding of the facilities used by professional teams, and that the increased levels of public debt associated with the use of tax dollars to finance stadiums, ballparks, and arenas led to higher levels of taxation or lower levels of public services.

Figure 3.8: Picture of an Open Space project

Source: Mission economic development authority

Entertainment, Tourist and Convention Facilities

A 4B corporation may construct entertainment, tourist, and convention facilities, including auditoriums, amphitheaters, concert halls, museums, and exhibition facilities (OAG 2008). Supporting a project under this authority produces the excitement and synergy necessary to generate tourism, which contributes directly to growth of the local economy (Fainstein and Stokes 1998).

Public Parks and Related Open Space Improvements

A 4B corporation may build public parks, park facilities and events; and open space improvement projects (OAG 2008). Preservation of downtown open space areas serve to enhance tourism by attracting business travel and generating shopping revenue (Fainstein and Stokes 1998).

Affordable Housing

A 4B corporation can undertake projects required or suitable for the development and expansion of "affordable housing" as defined by federal law[36] (OAG 2008).

Water Supply Facilities

A 4B corporation can undertake any water supply facility project, including dams, transmission lines; well field developments, and other water supply alternatives. Nonetheless, to undertake a water supply facility, a majority of the qualified voters of the city must approve the water supply project (OAG 2008).

Water Conservation Programs

A 4B corporation may create water conservation programs, including incentives to customers to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines (OAG 2008). As with water supply facilities, to create a water conservation program, a majority of the qualified voters of the city must approve the water conservation program (OAG 2008).

[36] United States Code Title 42, Chapter 130, Section 12745 provides a definition of affordable housing. Visit the GPO Access website at http://frwebgate.access.gpo.gov/cgi-bin/usc.cgi?ACTION=RETRIEVE&FILE=$$xa$$busc42.wais&start=47603771&SIZE=14137&TYPE=TEXT to view

Figure 3.10: Picture of a Water Conservation Program in Texas

Source: Texas waterhog.com

Compliance requirements within the law

In 1997, the Texas legislature added Section 4C to the Development Corporation Act of 1979 (DCA) requiring 4A and 4B corporations to report their financial activities to the Comptroller of Public Accounts by February 1 of each year. The report must include a statement of the corporation's primary economic development objectives, a statement of total revenues during the preceding fiscal year, and a statement of the corporation's total expenditures during the preceding fiscal year in each of the following categories:

- Administration
- Personnel
- Marketing or promotion
- Direct business incentives
- Job training
- Debt service
- Capital costs
- Affordable housing
- Payments to taxing units

A list of the corporation's capital assets, including land and buildings, and any other information the comptroller requires to determine the use of the sales and use tax imposed must be submitted in the report.

Compliance and non-compliance

Because the report that is submitted to the Comptroller does not assess whether a corporation is undertaking allowable projects or not further insight to measure compliance 4A and 4B corporations is needed. Further insight may consist of a review of various items such as city and board approval of the project, and involvement of the public. The Development Corporation Act requires that the corporation meet certain criteria before undertaking and funding projects; however, there is not a state agency responsible for overseeing the corporation's activities. Additionally, a corporation can be non-compliant by not satisfying the specified criteria when undertaking projects or undertaking projects not allowed by the law.

For example, a 4B corporation is required by law to hold at least one public hearing on a proposed project, providing a proposal estimating project maintenance and operating expenses (OAG 2008). After a project has been considered at a public hearing and 60 days has passed since the first public notice of the project, the corporation may make expenditures related to the project (Schrader & Cline 2003). Also, both 4A and 4B corporations fall under the control of the city council (section 23 (11) of the DCA) (Shrader and Cline 2003).

Both 4A and 4B corporations are allowed to undertake projects specified in this chapter. However, there are projects that a corporation can undertake that are in non-compliance with the law. A 4A corporation can be in non-compliance with the law if a project is for[37]:

- Transportation facilities
- Sewage or solid waste disposal facilities
- Air or water pollution control facilities
- Public safety facilities
- Professional and amateur sports and athletic facilities
- Entertainment, tourist and convention facilities
- Public parks and related open space improvements

[37] This is not an exhaustive list rather a starting point for this preliminary study. Through my work experience I was made aware of anecdotal information about non-compliance by 4A corporations which included undertaking projects of a 4B nature (bullet points 5-10) and other miscellaneous projects not specified in the law.

- Affordable housing
- Water supply facilities
- Water conservation programs
- Beautification of the city
- Renovation of buildings owned by the city
- Any project not prescribed by the law[38]

A 4B corporation can be in non-compliance with the law if a project is undertaken for[39]: beautification of the city, renovation of buildings owned by the city, building new city buildings, building a community college, or any other type of project not allowed by the Act[40]. Obviously these items are not an exhaustive listing of non-compliant projects, but rather a starting point in identifying non-compliance with the law. Therefore, further research and analysis is needed.

Conceptual Framework[41]

The purpose of this research is descriptive in nature, and the conceptual framework used descriptive categories. The use of descriptive categories organizes the inquiry by describing the allowable projects under the Development Corporation Act (DCA) and gauging the compliance of 4A and 4B corporations. A review of the authorizing legislation necessary in assessing compliance with the DCA provides the basis for the framework that was used to develop a questionnaire that measures compliance of the corporations. The legislation review revealed three broad project categories under which to organize the allowable projects under the DCA including

[38] Any project outside of the prescribed allowable projects in the law is considered non-compliance with the law. These projects were not added to the Conceptual Framework or Operationalization table.

[39] This is not an exhaustive list rather a starting point for this preliminary study. Through my work experience I was made aware of anecdotal information about non-compliance by 4B corporations which included undertaking projects not specified in the law.

[40] Any project outside of the prescribed allowable projects in the law is considered non-compliance with the law. These projects were not added to the Conceptual Framework or Operationalization table.

[41] For more information on Conceptual Framework development in Public Administration see Shields (1998) and Shields & Tajalli (2006)

projects that create and retain primary jobs, projects that promote and develop new or expanded business enterprises, and other miscellaneous projects.

Table 3.2: Conceptual Framework Linked to Literature-Descriptive Categories for 4A and 4B Economic Development Corporations

DESCRIPTIVE CATEGORIES	LITERATURE
Projects for the Creation or Retention of primary jobs	
Manufacturing and industrial facilities	
Research and development facilities	
Military facilities	
*Transportation facilities**	
*Sewage or solid waste disposal facilities**	
Recycling facilities	DCA 1979
*Air or water pollution control facilities**	OAG 2008
Distribution centers	
Small warehouse facilities	
Primary job training facilities	
Regional or national corporate headquarters facilities	
*Public safety facilities**	
Projects for the Promotion or development of new or expanded business enterprises	
Job training facilities	
Infrastructure limited to: streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvements, telecommunications, internet improvements, beach remediation along the gulf coast, found by the board of directors to be required or suitable	DCA 1979 OAG 2008
Miscellaneous Projects	
Career center	
*Professional and amateur sports and athletic facilities**	
*Entertainment, tourist and convention facilities**	
*Public parks and related open space improvements**	DCA 1979
*Affordable housing**	OAG 2008
*Water supply facilities**	
*Water conservation programs**	

*unallowable project for 4A corporations, if undertaken then non-compliant with the law

Chapter Summary

This chapter provided an in-depth look at the allowable project areas under the Development Corporation Act that 4A and 4B corporations can undertake and fund using public tax revenue. A majority of the allowable project areas do not have supporting research regarding the practical implementation of the Development Corporation Act. There is no systematic data that shows how these corporations are spending money. The goal of this research project is to provide preliminary data that examines compliance with the statute. The next chapter explains the methodology used to answer the question of compliance.

Chapter 4: Methodology

Chapter Purpose

This study uses survey research directed at 4A and 4B development corporations in Texas to estimate compliance with the Development Corporation Act (DCA). Each survey question addresses a particular allowable project that corresponds to the categories developed in Chapter 3. For example, the statement "*The Corporation has funded projects with sales tax revenue for Manufacturing and Industrial facilities"* is designed to assess whether 4A and 4B corporations in Texas are spending tax revenue in compliance with the law. The operational relationship between the survey question and each descriptive category is depicted in Table 4.1. When taken together, the survey responses should provide an overview of the types of projects undertaken and whether 4A and 4B corporations who responded are in compliance with the law.

Table 4.1: Operationalization of the Conceptual Framework

Survey Question	Categories	Response Scale
Projects for the creation or retention of primary jobs		
The corporation has funded projects with sales tax revenue for	*Manufacturing and industrial facilities*	(1) Yes (2) No
The corporation has funded projects with sales tax revenue for	*Research and development facilities*	
The corporation has funded projects with sales tax revenue for	*Military facilities*	
The corporation has funded projects with sales tax revenue for	*Transportation facilities*	
The corporation has funded projects with sales tax revenue for	*Sewage or solid waste disposal facilities*	
The corporation has funded projects with sales tax revenue for	*Recycling facilities*	
The corporation has funded projects with sales tax revenue for	*Air or water pollution control facilities*	

The corporation has funded projects with sales tax revenue for	*Distribution centers*	
The corporation has funded projects with sales tax revenue for	*Small warehouse facilities*	
The corporation has funded projects with sales tax revenue for	*Primary job training facilities*	
The corporation has funded projects with sales tax revenue for	*Regional or national corporate headquarters facilities*	
The corporation has funded projects with sales tax revenue for	*Public safety facilities*	
Projects for the promotion or development of new or expanded business enterprises		
The corporation has funded projects with sales tax revenue for	*Job training facilities*	(1) Yes (2) No
The corporation has funded projects with sales tax revenue for	*Street infrastructure*	
The corporation has funded projects with sales tax revenue for	*Road infrastructure*	
The corporation has funded projects with sales tax revenue for	*Rail spur infrastructure*	
The corporation has funded projects with sales tax revenue for	*Water and sewer utility infrastructure*	
The corporation has funded projects with sales tax revenue for	*Electric utility infrastructure*	
The corporation has funded projects with sales tax revenue for	*Gas utility infrastructure*	
The corporation has funded projects with sales tax revenue for	*Drainage infrastructure*	
The corporation has funded projects with sales tax revenue for	*Site improvement infrastructure*	
The corporation has funded projects with sales tax revenue for	*Telecommunication infrastructure*	
The corporation has funded projects with sales tax revenue for	*Internet infrastructure*	
The corporation has funded projects with sales tax revenue for	*Beach remediation*	
Miscellaneous projects		
The corporation has funded projects with sales tax revenue for	*Career center*	(1) Yes (2) No
The corporation has funded projects with sales tax revenue for	*Professional and amateur sports and athletic facilities*	

The corporation has funded projects with sales tax revenue for	*Entertainment, tourist and convention facilities*	
The corporation has funded projects with sales tax revenue for	*Public parks and related open space improvements*	
The corporation has funded projects with sales tax revenue for	*Affordable housing*	
The corporation has funded projects with sales tax revenue for	*Water supply facilities*	
The corporation has funded projects with sales tax revenue for	*Water conservation programs*	

Research Technique

This study uses survey research to determine whether 4A and 4B corporations are in compliance with applicable law. According to Babbie (2004), survey research is the best method available in collecting original data for describing a population too large to observe directly.

Strengths of Survey Research

There are various strengths in using survey research. First, survey research is useful in describing the characteristics of a larger population (Babbie 2004). Second, survey research can provide insight into individual perceptions and attitudes as well as organizational policies and practices (Baruch and Holton 2008). Third, survey research makes large samples feasible (Babbie 2004). Lastly, survey research is considered to have a high reliability which allows the development of operational definitions from actual observations (Babbie 2004). The ease and use of survey research has grown due to the availability of the World Wide Web and electronic mail, and is a more rapid form of measuring a large population (Fricker & Schonlau 2002).

Weaknesses of Survey Research

On the other hand, there are also weaknesses to using survey research. A survey rarely has a 100 percent response rate, unless coercively administered to the target population (Baruch and Holton 2008). The use of closed ended questions that are relatively unclear can cause missed key responses (Babbie 2004). Survey research, especially online surveys, may not be representative of the meaningful population (Babbie 2004). Since the data is self-reported respondents have an incentive to minimize reports of non-compliance, thereby understating compliance estimates. Only a careful review of the corporation books by trained auditors could truly reveal accurate information.

To address the weaknesses inherent in survey research, respondents who had not responded by March 29, 2009 were sent a reminder survey message. This resulted in a larger sample. Second, the survey instrument was pretested to address unclear closed-ended questions. The pretest was conducted on individuals in the economic development field as well as some individuals in the general public administration field to verify objectivity. The survey instrument was carefully constructed using the conceptual framework.

Response Scale

The questionnaire uses a dichotomous type scale which asks respondents to acknowledge participation in certain economic development projects. The responses are "Yes" for participation or "No" for non-participation. Once the questionnaire was completed, the responses were analyzed and used to assess the corporations' with the law. A copy of the survey instrument can be viewed in attachment A. The survey instrument was administered using a web based survey tool (Survey Monkey). The link to the survey was sent to the respondents via e-mail. If an e-mail address could not be located, the survey was sent by conventional mail.

Human Subjects

The survey research required human subjects. The survey posed no reasonable or foreseeable risk or discomfort to the subjects, and they received no benefit for their participation. The information provided is subject to the Public Information Act (TX Government Code Ch. 552). No alternative data gathering method was necessary, and confidentiality of the subjects was not a concern, because respondents were commenting on a public program that did not include personal information. Confidentiality issues were minimized and the process was exempt from Texas State Institutional Review Board formal review. Participation in the survey was voluntary and refusal to participate involved no penalty or loss of benefits to which the subject was otherwise entitled; furthermore, the subject could discontinue participation at any time.

The survey instrument was an effective method for gathering information about a large group, however it had flaws. The survey instrument was e-mailed or mailed to a general contact. Once the survey was sent it was not clear who the respondent actually was, because the survey did not require a name and title. The survey only required submission of the corporations' name. Also, the survey did not have a mechanism built in to safeguard against repetitive responses or eliminate a respondent from just clicking “yes” or “no” for each question. Response bias by the survey respondents was also possible because it was unclear who was actually responding to the survey.

Sample

The sample and sampling frame for the study was 4A and 4B corporations in Texas of the 217 4A corporations and 435 4B corporations, all 652 corporations received the survey. The survey was addressed to the corporation, not an individual. A copy of the e-mail can be viewed in attachment B.

Statistics

Descriptive statistics was used to summarize the survey data in a clear and understandable way. The descriptive statistics provided an overview of the survey data to assess whether 4A and 4B corporations are in compliance with the law. This data is not only useful for providing the assessment to determine compliance but could also be used in future research to establish enforcement and additional oversight of economic development corporations by the Texas legislature.

Chapter Summary

This chapter presented a conceptual framework, which was the basis of a survey administered to 4A and 4B economic development corporations in Texas. The next chapter presents the results of the survey, and an analysis of the data collected.

Chapter 5: Results

Chapter Purpose

The purpose of this chapter is to present and estimate preliminary compliance of 4A and 4B corporations. This analysis uses the results of the Texas Economic Development Corporation survey. The descriptive statistics address the research purpose by describing how 4A and 4B corporations comply with the allowable projects set forth in the Development Corporation Act of 1979.

Description of Returned Surveys

The survey was administered to 652 4A and 4B corporations across Texas. The returned surveys totaled 160, which indicated a response rate of approximately 25 percent.

Table 5.1: Rate of response by 4A and 4B corporations

	Number of corporations in the State	Number of returned surveys	Rate of response
4A corporations	217	61	28%
4B corporations	435	99	23%

Of those who responded, 61 4A corporations and 99 4B corporations responded to the questions. Based on the number of corporations that responded, the estimated rate of response is approximately 28 percent for 4A corporations, and approximately 23 percent for 4B corporations. It should be noted, however, that not all questions were answered by all respondents. 4A corporations had a response range of 47 to 55, while 4B corporations had a response range of 74 to 88. Hence, the data should be interpreted cautiously, taking the response rate into account. It is difficult to generalize for the entire population, as those that may be in non-compliance with the law may have been reluctant to respond, thus skewing the results.

Results

Projects for the Creation or Retention of Primary Jobs

To comply with the law, a 4A corporation must fund a project under this category that creates or retains primary jobs in one or more of the following areas:

- Manufacturing and industrial facilities
- Research and development facilities
- Military facilities
- Recycling facilities
- Distribution centers
- Small warehouse facilities
- Primary job training facilities for use by institutions of higher education
- Regional or national corporate headquarter facilities

The survey results indicate that 84 percent of 4A corporations are in compliance with the requirement of undertaking projects for the creation or retention of primary jobs. Table 5.2 indicates the allowable projects that 4A corporations are undertaking and their percentage of use. Manufacturing (69%) and industrial facility (60%) type projects are the most popular types of projects undertaken. The higher rate is an indication that local governments are supporting economic development efforts through job creation and job retention. Another trend worth noting is the decline in the number of respondents as the percentage of compliance declines. Location is a challenge for 4A corporations as they determine what projects to undertake. There may be a greater need for research and development facilities in the Panhandle region versus the Lower

Rio Grande Valley region. The same can be said about military facilities in the North Texas region versus the same need in the Permian Basin[42] region.

Table 5.2: 4A corporation compliance on projects for the creation or retention of primary jobs

Projects for the Creation or Retention of Primary Jobs	Compliance	Number of respondents
Creation or retention of primary jobs (NAICS)	84%	55
Manufacturing facility	69%	52
Industrial facility	60%	55
Small warehouse facility	32%	50
Research and development facility	20%	51
Primary job training facility	19%	48
Distribution center	18%	49
Regional headquarter facility	16%	50
Recycling facility	12%	49
National corporate headquarter facility	10%	50
Military facility	4%	49

4A corporations cannot build a transportation facility, sewage or solid waste disposal facility, or general public water facility. Undertaking a project in one of these categories is in non-compliance with the law. The survey results (Table 5.3) indicate that 19 percent of 4A corporations are undertaking transportation facility projects. This data only captures 48 of 61 total respondents. Corporations may have been reluctant to answer truthfully or perhaps the individual responding to the survey was uninformed as to whether the corporation had undertaken such projects and skipped the survey question completely. An interesting trend in this case is that, as the non-compliance percentage decreases, the number of respondent's increases.

[42] Permian Basin region in Texas is the El Paso area

Table 5.3: 4A corporation non-compliance on projects for the creation or retention of primary jobs

Projects for the Creation or Retention of Primary Jobs	Non-Compliance	Number of respondents
Transportation facility	19%	48
Sewage or solid waste disposal facility	10%	50
General public water facility	8%	50

The measurement of compliance of 4B corporations in undertaking projects for the creation of retention of primary jobs is simply to describe the percentage of projects undertaken or not undertaken by the corporation. A 4B corporation can undertake any project listed in Table 5.4. Thirty-five percent of 4B corporations have undertaken a manufacturing facility project, and 25 percent have undertaken an industrial facility project. These two project areas are the most popular among respondent corporations. Since non-compliance among 4B corporations is not possible here, it is expected that all 99 respondents would have responded to either undertaking or not undertaking a project; however the trend indicates otherwise.

Table 5.4: 4B corporation compliance on projects for the creation or retention of primary jobs

Projects for the Creation or Retention of Primary Jobs	Have undertaken project	Have not undertaken project	Number of respondents
Manufacturing facility	35%	65%	82
Industrial facility	25%	75%	80
Regional headquarter facility	18%	82%	79
Distribution center	15%	85%	79
Small warehouse facility	15%	85%	79
Research and development facility	12%	88%	81
General public water facility	10%	90%	79
Sewage or solid waste disposal facility	10%	90%	74
Primary job training facility	8%	92%	78
Transportation facility	6%	94%	79
National corporate headquarter facility	6%	94%	79

Recycling facility	5%	95%	79
Military facility	1%	99%	79
Air or water pollution control facility	0%	100%	79

Projects for the Promotion or Development of New or Expanded Business Enterprises

To comply with the law, projects for the promotion or development of new or expanded business enterprises do not need to be conditioned upon the creation or retention of primary jobs. The measurement of compliance in undertaking projects in this category is described by the percentage of projects undertaken by each type of corporation. Tables 5.5 and 5.6 describe the trend of undertaken projects. Surprisingly, fewer and fewer corporations have undertaken projects in the allowable areas. With the number of respondents within the range of 46 to 53, further research is necessary to explore the needs of the various corporations and the demand for projects that is either for targeted infrastructure or job training. Interestingly, 63 percent of 4A corporations have promoted new business enterprise compared to only 61 percent of 4B corporations. The data shows an upward trend in undertaking projects by 4A corporations versus 4B corporations. Even with a higher response rate by 4B corporations, 4A corporations have a higher usage rate.

Table 5.5: 4A corporation compliance on projects for the promotion and development of new or expanded business enterprise

Projects for the Promotion and Development of New or Expanded Business Enterprise	Have undertaken project	Have not undertaken project	Number of respondents
Promote new business enterprise	63%	37%	51
Site improvement infrastructure	61%	39%	49
Water and sewer utility infrastructure	58%	42%	50
Street infrastructure	57%	43%	53
Develop new business enterprise	51%	49%	51
Road infrastructure	50%	50%	48
Job training	48%	52%	48
Drainage infrastructure	42%	58%	50
Electric utility infrastructure	35%	65%	49
Gas utility infrastructure	29%	71%	49
Rail spur infrastructure	20%	80%	46
Telecommunication infrastructure	17%	83%	48
Internet infrastructure	13%	88%	48
Beach remediation	0%	100%	48

Table 5.6: 4B corporation compliance on projects for the promotion and development of new or expanded business enterprise

Projects for the Promotion and Development of New or Expanded Business Enterprise	Have undertaken project	Have not undertaken project	Number of respondents
Promote new business enterprise	61%	39%	79
Water and sewer utility infrastructure	58%	42%	85
Develop new business enterprise	49%	51%	83
Site improvement infrastructure	45%	55%	84
Street infrastructure	41%	59%	83
Road infrastructure	39%	61%	82
Drainage infrastructure	33%	67%	82
Job training	32%	68%	81
Electric utility infrastructure	23%	77%	79
Gas utility infrastructure	13%	88%	80
Telecommunication infrastructure	8%	92%	79
Rail spur infrastructure	7%	93%	81
Internet infrastructure	5%	95%	78
Beach remediation	1%	99%	80

Miscellaneous Projects

To comply with the law, 4A and 4B corporations must undertake only those projects the law prescribes. A 4A corporation can only undertake a career center project, while a 4B corporation can undertake projects for:

- Public park facility or event
- New business enterprise
- Athletic facility or event
- Professional and amateur sports facility
- Entertainment and tourist events
- Affordable housing
- Convention event
- Public safety facility
- Career center
- Water supply facility
- Water conservation program

It appears that 9 percent of 47 respondent 4A corporations are in compliance with the law (Table 5.7). The remainder is either undertaking non-allowable projects or no projects at all.

Table 5.7: 4A corporation compliance on miscellaneous projects

Miscellaneous Projects	Compliance	Number of respondents
Career center	9%	47

In contrast to the data presented in Table 5.8, the concentration of projects undertaken by 4A corporations is higher among non-allowable projects. Forty-four percent of 4A corporations are undertaking projects for new business enterprise, when that percentage should be zero. Oversight of projects undertaken is an element crucial to proper governance and fiscal responsibility. The high percentage of non-compliance demands further oversight and research.

Table 5.8: 4A corporation non-compliance on miscellaneous projects

Miscellaneous Projects	Non-Compliance	Number of respondents
New business enterprise	44%	50
Public Park facility or event	24%	50
Affordable Housing	13%	48
Entertainment event	10%	48
Athletic facility or event	10%	49
Tourist event	9%	47
Water supply facility	6%	47
Professional and amateur sports facility	6%	50
Public safety facility	4%	47
Convention event	2%	48

4B corporations can undertake any miscellaneous project listed in Table 5.9. The measurement of compliance for miscellaneous projects is calculated by the actual number of projects undertaken by the corporation. Of the ninety-nine 4B corporations that responded, only 79-88 corporations answered this question either yes or no. This is alarming because the basis for establishing a 4B corporation is the ability to undertake specific miscellaneous projects classified as "community development" projects. Furthermore, 4 percent of 4B corporations are undertaking water supply facility projects, which are typically an unpopular project because of the high costs associated. A low percentage of corporations are sponsoring water conservation program projects. This number represents a normal trend.

Table 5.9: 4B corporation compliance on miscellaneous projects

Miscellaneous Projects	Have undertaken project	Have not undertaken project	Number of respondents
Public Park facility or event	67%	33%	88
New business enterprise	47%	53%	83
Athletic facility or event	40%	60%	84
Professional and amateur sports facility	39%	61%	84
Tourist event	37%	63%	82
Entertainment event	27%	73%	79
Affordable Housing	15%	85%	80
Convention event	11%	89%	80
Public safety facility	6%	94%	79
Career center	5%	95%	78
Water supply facility	4%	96%	79
Water conservation program	1%	99%	79

Measuring Compliance

Since there was a variance in the allowable and non-allowable projects among 4A and 4B corporations, a few additional measures were added to the survey to help estimate compliance through non-compliance. Two key questions were asked of both corporation types to determine the percentage of non-compliance. Corporations were asked if they had undertaken projects that were for (1) the beautification of the city, and (2) renovation of buildings owned by the city. During the 2003 legislative session, House Bill 2912 passed and eliminated loopholes in the Development Corporation Act that enabled Texas communities to use 4A and 4B tax revenues in ways never envisioned, such as building fire stations and city halls (TEDC 2008).

Twenty-seven percent of fifty-one 4A corporations undertook beautification of city projects which appeared to be in non-compliance with the law (Table 5.10).

Twenty-three percent of eighty 4B corporations renovated buildings owned by the city projects, which also appeared to be in non-compliance of the law (Table 5.10). The high percentages shown in Table 5.10 are of concern and warrant further research since the rate of non-response is also high. Approximately 76 percent of 4A corporations and 81 percent of 4B corporations failed to provide a response to either question.

Table 5.10: 4A and 4B corporation non-compliance

Projects outside scope of Law	4A Non-Compliance	Number of 4A respondents	4B Non-Compliance	Number of 4B respondents
Beautification of City	27%	51	54%	81
Renovation of buildings, owned by city	22%	50	23%	80

Chapter Summary

The data provides potential evidence that non-compliance with the Development Corporation Act of 1979 is prevalent. Based on the results, a restructure of the law and additional oversight of projects is necessary. The next chapter summarizes the research findings and discusses next steps for 4A and 4B corporations.

Chapter 6: Conclusion

Chapter Purpose

This final chapter provides a summary of the research findings as they relate to the research purpose. Additionally, a description of the survey respondents and recommended future actions are discussed. Recommendations for use of this research is also included and based on analysis of the survey results.

Summary of Research

The purpose of this research was to assess statutory compliance of Texas 4A and 4B economic development corporations with the Development Corporation Act (DCA). The scientific economic development literature focused on the definition of economic development from two perspectives-theory and practice. Additionally the economic development process at the various levels of federal, state, and local government were discussed. Lastly, the DCA was analyzed to determine the allowable projects specific to 4A and 4B corporations.

Based on the preliminary assessment of compliance of 4A and 4B corporations, overall compliance of 4A corporations was identified using two of the three categories. Both 4A and 4B corporations’ projects were assessed based on the scope of the law. Table 6.1 describes overall compliance among respondent 4A corporations (61). Thirty-one percent complied with undertaken allowable projects in category one, creation or retention of primary jobs. At the same time, 12 percent of those corporations were in non-compliance with the law by undertaking projects in category one that were for a transportation facility, sewage or solid waste disposal facility, or general public water facility (see Table 5.3). The percentages presented in Table 6.1 indicate that 1 in 7 corporations (among those that responded) have undertaken projects disallowed by the law. Surprisingly, these corporations were not reluctant to respond to the question even if it meant exposing this non-compliance.

Table 6.1: Overall compliance by 4A Corporation

Category	Compliance	Non-compliance	Number of respondents
Projects for the Creation or Retention of Primary Jobs	31%	12%	61
Miscellaneous Projects	9%	13%	61

Table 6.2 indicates the percentage of non-compliance among the respondent 4A and 4B corporations. Fifty-one 4A corporations responded, while 81 4B corporations responded. The number of responses is important because it appears that non-compliance is potentially more prominent since corporations are reluctant to reveal information. Among those that responded, the rates of non-compliance are relatively high. It is uncertain whether this ratio would remain as high if all 4A corporations had responded to the survey.

Table 6.2: 4A and 4B corporation non-compliance

Projects outside scope of Law	4A Non-Compliance	Number of 4A respondents	4B Non-Compliance	Number of 4B respondents
Beautification of City	27%	51	54%	81
Renovation of buildings, owned by city	22%	50	23%	80

Among respondent 4A corporations, 27 percent undertook city beautification projects. Among respondent 4B corporations, 54 percent undertook the same type of projects. Similarly, 22 percent of respondent 4A corporations undertook projects that renovated city owned buildings, while of respondent 4B corporations, 23 percent undertook projects that renovated city owned buildings. One should note that these percentages are relatively high. Further research and a full audit are needed to determine full non-compliance or compliance with the Act.

Description of Survey Respondents

The survey instrument was an effective method for gathering information about a large group, however it had flaws. The survey instrument was e-mailed or mailed to a general contact. Once the survey was sent, it was unclear who the respondent actually was, because the survey did not request a name and title. The survey only required the corporation's name.

Also, the survey did not have a mechanism built in to safeguard against repetitive responses or to prevent a respondent from just clicking "yes" or "no" for each question. Response bias by the survey respondents was also possible, because it was unclear who was responding. It is possible that the respondent answered in a way that indicated, when that may not have been the case. The respondent could have been a general contact with no knowledge of the inner structure of the economic development corporation.

Roadmap for Future Actions

Elected city officials and the corporations' board of directors currently oversee 4A and 4B corporation activities. On a yearly basis, the corporations are required to report certain dollar amounts to the Comptroller of Public Accounts. From the data collected, there is no way to measure compliance with the law. Ultimately it is the responsibility of the corporation's board of directors and the city council to ensure compliance with the law.

This research indicates that the key elements needed for 4A and 4B corporations to attain and maintain compliance are:

- *Adequate Training*
- *Review and understanding of the Law*
- *Annual Audits and Reviews*
- *Proper Record Keeping*
- *Adequate Public Participation*

New and existing board members, city elected officials, and any other city staff that interact with the corporation should receive adequate training. The training should be conducted yearly and focus on roles, responsibilities, the law, and allowable uses of collected tax revenue. An annual audit and review of the corporation's expenditures assures compliance with the law and help eliminate future risk. Proper record keeping ensures accountability. Allowing the public to participate and comment on the types of projects that the board is considering, ensures taxpayer is feedback on use of their tax dollars.

Most corporations fall into non-compliance because they are unfamiliar with the law, the city council has self-serving interests, and board members and city staff have inadequate training. It is also possible for a corporation to fall into non-compliance when the legislature makes changes to the law, and a corporation is not notified or aware of the change. Lastly, with no mechanism to provide oversight of 4A and 4B economic development corporations, there is no method of informing corporations of law changes, training, or support.

Recommendations for Use of this Research

This research should be used to encourage elected officials to make changes to the law so that an oversight mechanism is added. Ideally, the role of oversight and support of 4A and 4B economic development corporations should be with the Comptroller of Public Accounts. This agency handles the allocation and dispersal of the economic development sales and use tax to Texas cities, so the assistance should come from this office. Currently, the Comptroller is responsible to report to the legislature the revenues and expenditures of 4A and 4B corporations. The Local Government Assistance & Economic Development Division provides the Comptroller some support; however, this support and oversight could be expanded. Encouraging 4A and 4B corporations to become transparent, an annual review of their financial reports (audited financial statement), to train new and existing board members and city staff, to review expenditures on approved projects, to review board resolutions, and to support future projects are a few of the duties that should be incorporated into an oversight mechanism.

By reviewing this information on a yearly basis, the citizens are assured that the taxes they pay are used for economic development projects and not self-serving city interests. Increase administrative oversight on the activities of 4A and 4B corporations is necessary for a transparent government and encourages accountable, prudent use of tax dollars, and responsive citizens.

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Attachment A: Survey Instrument

Hello! My name is Magdalena Blanco. I am a graduate student at Texas State University San Marcos. I am conducting this survey for my graduate applied research project.

I have been in the economic development field since 2006, working for Economic Development & Tourism in the Governor's Office. Currently I am working for Local Government Assistance & Economic Development in the Comptroller's Office. I am very familiar with the economic development process and 4A and 4B corporations. This survey will assess the types of projects that 4A and 4B Economic Development Corporations have funded during the period of 2004-2008. This survey will assist local governments and economic developers in focusing efforts for the greatest return.

The survey process should take approximately 2 to 5 minutes to complete. Participation in this survey is completely voluntary and confidential. Refusal to participate in this survey involves no penalty or loss of benefits to which you are entitled. If you should have any questions about your rights or any other questions please feel free to contact me at 512-731-8864 or magdalenablanco08@gmail.com.
Thank you very much for your assistance.

Please read the statements carefully. Indicate whether the EDC has undertaken and funded a project in the specified project category by clicking Yes or No.

1. What is the name of your Economic Development Corporation?

2. What type of corporation is the EDC?

4A ☐ 4B ☐

3. Creation or retention of primary jobs (NAICS)

☐ Yes ☐ No

4. Manufacturing facility

☐ Yes ☐ No

5. Industrial facility

☐ Yes ☐ No

6. Research and development facility

☐ Yes ☐ No

7. Military facility

☐ Yes ☐ No

8. Transportation facility

☐ Yes ☐ No

9. Sewage or solid waste disposal facility

☐ Yes ☐ No

10. Recycling facility

☐ Yes ☐ No

11. Air or water pollution control facility

☐ Yes ☐ No

12. General public water facility

☐ Yes ☐ No

13. Distribution center

☐ Yes ☐ No

14. Small warehouse facility

☐ Yes ☐ No

15. Primary job training facility

☐ Yes ☐ No

16. Regional headquarter facility

☐ Yes ☐ No

17. National corporate headquarter facility

☐ Yes ☐ No

18. Promote new business enterprise

☐ Yes ☐ No

19. Develop new business enterprise

☐ Yes ☐ No

20. Job training

☐ Yes ☐ No

21. Street infrastructure

☐ Yes ☐ No

22. Road infrastructure

☐ Yes ☐ No

23. Rail spur infrastructure

☐ Yes ☐ No

24. Water and sewer utility infrastructure

☐ Yes ☐ No

25. Electric utility infrastructure

☐ Yes ☐ No

26. Gas utility infrastructure
Yes No
27. Drainage infrastructure
Yes No
28. Site improvement infrastructure
Yes No
29. Telecommunication infrastructure
Yes No
30. Internet infrastructure
Yes No
31. Beach remediation
Yes No
32. Career center
Yes No
33. Professional and amateur sports facility
Yes No
34. Athletic facility or event
Yes No
35. Entertainment event
Yes No
36. Tourist event
Yes No
37. Convention event
Yes No
38. Public Park facility or event
Yes No
39. Public safety facility
Yes No
40. New business enterprise
Yes No
41. Affordable Housing
Yes No
42. Water supply facility
Yes No
43. Water conservation program
Yes No

44. Beautification of City
Yes No
45. Renovation of City owned buildings
Yes No
46. Do you hold a public hearing on proposed projects?
Yes No
47. Is the EDC required to hold a public hearing on proposed projects?
Yes No
48. What reference does the EDC use in verifying allowable projects?
Yes No
49. Does the EDC consult a published document or contact a state agency?

Economic Development Handbook (OAG)
Development Corporation Act of 1979
Texas Ahead
Texas Economic Development Council
Other (please specify)
State Agency
Published Document
Both
Neither

Specify which agency and/or published document

Attachment B: Survey E-mail

To: [Email]

From: mb1356@txstate.edu

Subject: Economic Development Corporations Survey, more information

Body: Hello! My name is Magdalena Blanco. I am a graduate student at Texas State University San Marcos. I am conducting a survey for my graduate applied research project. I have worked for the Governor's Office in Economic Development and currently work at the Comptroller's Office in Local Government Assistance. I have worked with EDCs for the last 3 years and I am very familiar with the economic development process.

If you have already responded, thank you for your response. If you have yet to respond please use the link in this email. If you manage two EDC, please use the first email for the 4A EDC and this email for the 4B EDC.

This survey will assess the types of projects that 4A and 4B Economic Development Corporations have funded during the period of 2004-2008. This survey will assist local governments and economic developers in focusing economic development efforts for the greatest return.

Thank you very much for your assistance.
Here is a link to the survey:
http://www.surveymonkey.com/s.aspx

Thanks for your participation!

Please note: If you do not wish to receive further emails from me, please click the link below, and you will be automatically removed from my mailing list.
http://www.surveymonkey.com/optout.aspx

Attachment C: Survey Raw Data

Data for 4A corporations

Survey Question No.	Survey Question	Yes	No	n=( )
Q3	Creation or retention of primary jobs (NAICS)	83.64%	20.00%	55
Q4	Manufacturing facility	69.23%	30.77%	52
Q5	Industrial facility	60.00%	40.00%	55
Q6	Research and development facility	19.61%	80.39%	51
Q7	Military facility	4.08%	95.92%	49
Q8	Transportation facility	18.75%	81.25%	48
Q9	Sewage or solid waste disposal facility	10.00%	90.00%	50
Q10	Recycling facility	12.24%	87.76%	49
Q11	Air or water pollution control facility	0.00%	100.00%	48
Q12	General public water facility	8.00%	92.00%	50
Q13	Distribution center	18.37%	81.63%	49
Q14	Small warehouse facility	32.00%	68.00%	50
Q15	Primary job training facility	18.75%	81.25%	48
Q16	Regional headquarter facility	16.00%	84.00%	50
Q17	National corporate headquarter facility	10.00%	90.00%	50

Survey Question No.	Survey Question	Yes	No	n=( )
Q18	Promote new business enterprise	62.75%	37.25%	51
Q19	Develop new business enterprise	50.98%	49.02%	51
Q20	Job training	47.92%	52.08%	48
Q21	Street infrastructure	56.60%	43.40%	53
Q22	Road infrastructure	50.00%	50.00%	48
Q23	Rail spur infrastructure	19.57%	80.43%	46
Q24	Water and sewer utility infrastructure	58.00%	42.00%	50
Q25	Electric utility infrastructure	34.69%	65.31%	49
Q26	Gas utility infrastructure	28.57%	71.43%	49
Q27	Drainage infrastructure	42.00%	58.00%	50
Q28	Site improvement infrastructure	61.22%	38.78%	49
Q29	Telecommunication infrastructure	16.67%	83.33%	48
Q30	Internet infrastructure	12.50%	87.50%	48
Q31	Beach remediation	0.00%	100.00%	48

Survey Question No.	Survey Question	Yes	No	n=( )
Q32	Career center	8.51%	91.49%	47
Q33	Professional and amateur sports facility	6.00%	94.00%	50
Q34	Athletic facility or event	10.20%	89.80%	49
Q35	Entertainment event	10.42%	89.58%	48

Q36	Tourist event	8.51%	91.49%	47
Q37	Convention event	2.08%	97.92%	48
Q38	Public Park facility or event	24.00%	76.00%	50
Q39	Public safety facility	4.26%	95.74%	47
Q40	New business enterprise	44.00%	56.00%	50
Q41	Affordable Housing	12.50%	87.50%	48
Q42	Water supply facility	6.38%	93.62%	47
Q43	Water conservation program	0.00%	100.00%	48

Survey Question No.	Survey Question	Yes	No	n=( )
Q44	Beautification of City	27.45%	72.55%	51
Q45	Renovation of City owned buildings	22.00%	78.00%	50
Q46	Do you hold a public hearing on proposed projects?	57.69%	42.31%	52
Q47	Is the EDC required to hold a public hearing on proposed projects?	35.85%	64.15%	53

Data for 4B corporations

Survey Question No.	Survey Question	Yes	No	n=( )
Q3	Creation or retention of primary jobs (NAICS)	58.54%	41.46%	82
Q4	Manufacturing facility	35.37%	64.63%	82
Q5	Industrial facility	25.00%	75.00%	80
Q6	Research and development facility	12.35%	87.65%	81
Q7	Military facility	1.27%	98.73%	79
Q8	Transportation facility	6.33%	93.67%	79
Q9	Sewage or solid waste disposal facility	10.00%	90.00%	74
Q10	Recycling facility	5.06%	94.94%	79
Q11	Air or water pollution control facility	0.00%	100.00%	79
Q12	General public water facility	10.13%	89.87%	79
Q13	Distribution center	15.19%	84.81%	79
Q14	Small warehouse facility	15.19%	84.81%	79
Q15	Primary job training facility	7.69%	92.31%	78
Q16	Regional headquarter facility	17.72%	82.28%	79
Q17	National corporate headquarter facility	6.33%	93.67%	79

Survey Question No.	Survey Question	Yes	No	n=( )
Q18	Promote new business enterprise	60.76%	39.24%	79
Q19	Develop new business enterprise	49.40%	50.60%	83

Q20	Job training	32.10%	67.90%	81
Q21	Street infrastructure	40.96%	59.04%	83
Q22	Road infrastructure	39.02%	60.98%	82
Q23	Rail spur infrastructure	7.41%	92.59%	81
Q24	Water and sewer utility infrastructure	57.65%	42.35%	85
Q25	Electric utility infrastructure	22.78%	77.22%	79
Q26	Gas utility infrastructure	12.50%	87.50%	80
Q27	Drainage infrastructure	32.93%	67.07%	82
Q28	Site improvement infrastructure	45.24%	54.76%	84
Q29	Telecommunication infrastructure	7.59%	92.41%	79
Q30	Internet infrastructure	5.13%	94.87%	78
Q31	Beach remediation	1.25%	98.75%	80

Survey Question No.	Survey Question	Yes	No	n=( )
Q32	Career center	5.13%	94.87%	78
Q33	Professional and amateur sports facility	39.29%	60.71%	84
Q34	Athletic facility or event	40.48%	59.52%	84
Q35	Entertainment event	26.58%	73.42%	79
Q36	Tourist event	36.59%	63.41%	82
Q37	Convention event	11.25%	88.75%	80
Q38	Public Park facility or event	67.05%	32.95%	88
Q39	Public safety facility	6.33%	93.67%	79
Q40	New business enterprise	46.99%	53.01%	83
Q41	Affordable Housing	15.00%	85.00%	80
Q42	Water supply facility	3.80%	96.20%	79
Q43	Water conservation program	1.27%	98.73%	79

Survey Question No.	Survey Question	Yes	No	n=( )
Q44	Beautification of City	54.32%	45.68%	81
Q45	Renovation of City owned buildings	22.50%	77.50%	80
Q46	Do you hold a public hearing on proposed projects?	87.78%	12.22%	90
Q47	Is the EDC required to hold a public hearing on proposed projects?	78.89%	21.11%	90