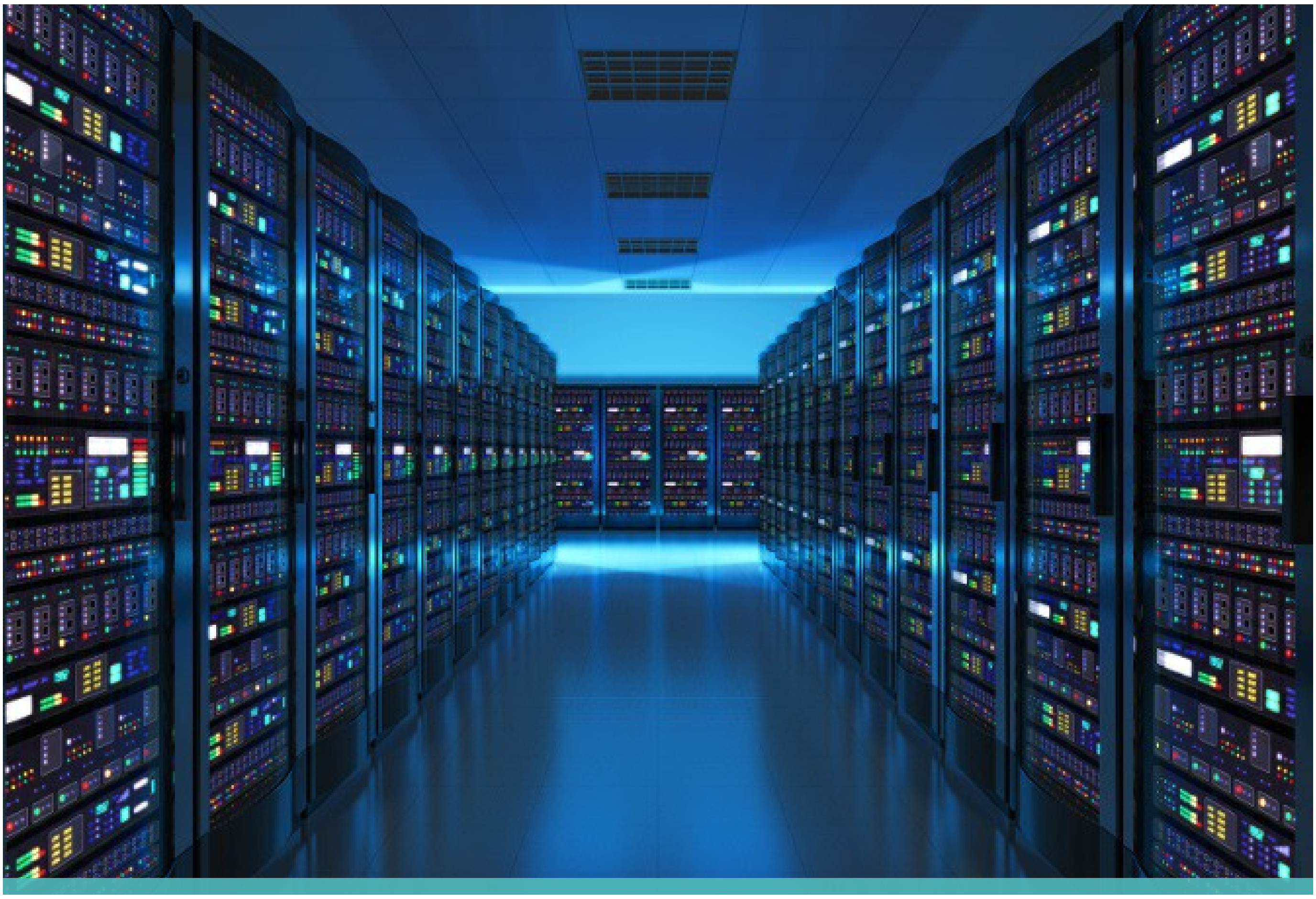
Ohio: Tax credit for Facebook facility creates controversy



David M. Kall | Friday, August 25, 2017

On July 31, 2017, Ohio Gov. John Kasich announced that the state's Tax Credit Authority (TCA) had approved 11 new economic development proposals around the state. State officials expect these projects to collectively create more than $62 million in new payroll, and spur more than $1.4 billion in investments across the Buckeye State.

Among these projects was Fund The Flip, a concern that provides funding for real estate developers at lower rates than traditional lenders. The TCA approved a 1.329 percent, six-year Job Creation Tax Credit for this project, on projections of the creation of 25 full-time positions and $1.5 million in new annual payroll in the city of Cleveland.

Another is Fluvitex USA's 1.602 percent, five-year Job Creation Tax Credit, which state officials expect to incentivize 80 full-time positions and $3.7 million in new annual payroll in Franklin County. Fluvitex, a subsidiary of a Spain-based textiles company that supplies Ikea, provides bedding products, like pillows, cushions, and comforters.

A third tax credit on Gov. Kasich's list generated a lot of controversy largely because of the lack of information about the recipient. The TCA approved a 2 percent, 10-year Job Creation Tax Credit and a 100 percent, 15-year data center sales tax exemption for a Sidecat LLC project in New Albany, Ohio. According to the state, the company is expected to create 50 full-time positions and $4 million in new annual payroll.

The announcement described Sidecat as a provider of "information technology services, such as remotely accessed computing power and data storage."

Though it has now come out that Sidecat is a Facebook facility, there was scant information available on it until recently. The Ohio Secretary of State website shows that it was formed on May 31, 2017, but there is no other information about the nature of the business in the registration document. Last week, Bloomberg reported that "Facebook Inc. and Ohio have announced that the social networking giant was the secretive company that received $37 million in tax credits from Ohio to build a data center outside Columbus," but "[f]or weeks, state and local officials refused to say who was actually behind Sidecat LLC."

Bloomberg quoted a Facebook official who defended the tech giant's lack of transparency on the grounds that "confidentiality behind the Sidecat name helped the project move faster and was necessary to help the company develop its strategy without informing competitors." A JobsOhio official - from the state's private job creation agency - concurred, reasoning that "[c]onfidentiality is important because it helps create long-term relationships with our clients…Sometimes that requires keeping the company name secret." But transparency does matter, according to the New Albany mayor: "[i]f the people start to believe the incentives aren't working out, then they can vote in new leaders."

Opacity in Ohio goes back further than just this year. A Good Jobs First overview explains that it was in early 2012, when Gov. Kasich created JobsOhio (with authority from the Ohio General Assembly), as a privatized, corporate board to substantially replace the Department of Development. But JobsOhio has been "fraught with controversy over its constitutionality and lack of transparency" and other matters. In 2013, the legislature exempted JobsOhio from public audit.

GoodJobs First asserts that transparency is a critical component of economic development tax credit initiatives, so taxpayers understand how effectively their tax dollars are being deployed. GoodJobs First and other organizations also review the extent to which states evaluate their programs' results in the first place, in order to determine whether the subsidies actually fulfill their job creation obligations. Last week, we described a Pew Charitable Trusts assessment of how well states evaluate their tax incentive programs. Pew gave Ohio a middling "making progress" grade, because it has adopted a plan for regular evaluation of tax incentives. Pew approved of the March 2017 formation of the Tax Expenditure Review Committee as "an approach that has worked well in other states," like Oregon.

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Team member bio