



Testimony of Reinvent Albany
**ASSEMBLY STANDING COMMITTEE ON ECONOMIC DEVELOPMENT,
JOB CREATION,
COMMERCE AND INDUSTRY
Albany, New York
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Thank you Chairman Schimminger and members of the Standing Committee on Economic Development for holding this important oversight hearing. I am Liz Marcello, Campaign Manager for Reinvent Albany. We are a non-profit watchdog group that advocates for more open and accountable New York State government.

Reinvent Albany advocates for state government to be more transparent and understandable to the public, including strengthening the Freedom of Information Law, opening government data, and encouraging open government websites like the Comptroller's Open Book and Attorney General's New York Open Government. We also seek to reduce corruption risk and the abuse of power through stronger independent oversight and analysis via the Comptroller, Authorities Budget Office and someday, a state independent budget office like New York City's.

This is a very important hearing and we hope the first of many you hold on economic development and public subsidies to businesses. Under Governor Cuomo, subsidies to businesses are one of the fastest growing parts of the state budget, and encompass a huge and complex apparatus for distributing billions in public funds through public authorities, branches of the State University of New York, state controlled non-profit groups, and the Regional Economic Development Authorities.

Reinvent Albany deeply appreciates Governor Cuomo's desire to use public investments to create jobs and spur the Upstate economy. We agree with the governor that there are

huge opportunities to use public investments to strengthen Upstate communities, while also creating large numbers of well-paying jobs.

This said, we have profound and fundamental concerns about the cost effectiveness, transparency, and integrity of many of the state run programs that hand out billions in public funds to select businesses.

We believe that the state legislature continues to make a big mistake by giving the governor what amounts to a giant blank check that he can spend with minimal independent oversight or accountability. This is especially true because the governor's system often operates outside of long-established state procurement and conflict of interest rules, and without pre-contract review by the Comptroller.

It is incredibly difficult for the public --- and the legislature --- to keep track of the state's multitude of business subsidies, let alone evaluate them. This is especially true because there is no single, online "Database of Deals," there is sparse and often delayed reporting, and there are no standard measures for making apples to apples comparisons for job creation across different programs. (For example, different state subsidy programs have different definitions for what a "job" is.)

We agree with the watchdog groups who say that there is a lack of evidence supporting the idea that handing out taxpayer dollars to individual businesses is a good use of public funds. We also agree that given the billions in public funds being spent, the legislature and public should be getting much more timely, high quality data. In turn that data should be used for robust analysis that shows that the state's business subsidy programs are a better use of public funds than traditional investments in public infrastructure that benefit the entire public, not just one business and its employees. We all know that Upstate's water treatment plants, water supply systems, roads, bridges, schools, and other public buildings can use all the help they can get.

These are fundamental unanswered questions, but to us, the biggest elephant in the room here today is the question of whether the billions in public dollars being spent via New York State's complex subsidy system are being awarded cleanly and fairly.

Investigations by the US Attorney for the Southern District, the Attorney General, and various journalists have revealed that New York State's marquee business subsidy programs are plagued by pay to play and conflict of interest.

There are now press accounts of what appears to be bid rigging and pay to play in at least three high profile contracts involving SUNY Polytechnic and the non-profit groups it controls, Fort Schuyler Management Corporation and Fuller Road Management Corporation --- and over a billion dollars in public funds.

Additionally, there are also well-documented press accounts of conflicts of interest involving the board members of Fort Schuyler and Fuller Road. At least one of these cases, in Albany, has triggered a criminal investigation by the Attorney General. Separately, it is public record that some voting members of the Regional Economic Development Councils are employed by organizations that have received tens of millions of dollars from these same REDC's.

This is a massive scandal. This is not a few bad apples, this is a system that has allowed a small number of the governor's biggest political contributors to win about a billion and a half dollars in publicly funded contracts without going through a fair and competitive process.

We do not know what will come of the various criminal investigations, but we do know that the system for distributing state business subsidies is full of corruption risk --- even if that corruption is legal. ("Pay to play" is the word for legal and illegal bribery.)

The governor's office is steering billions of dollars in economic development funds through the Fort Schuyler Management Corporation and Fuller Road Management Corporation --- which share staff and are controlled by SUNY Poly and in turn the governor's office. Fort Schuyler and Fuller Road are funded by grants from the Empire State Development Corporation, and ESD gets appropriations for various programs through the state budget.

Legally, Fort Schuyler and Fuller Road are non-profit groups that are not subject to state contracting and conflict of interest rules. As non-profits, they do not have to competitively bid projects, and they can legally write bids that essentially favor one business over another. They can also legally award their own board members lucrative contracts, 100% funded by taxpayer dollars.

Here are three of the high-profile contracts under investigation. Together they paint a picture of why the governor's use of state controlled non-profits is ripe for abuse.

- As part of Buffalo Billions, in 2014 Fort Schuyler Management awarded a contract worth \$350 million to LP Ciminelli to build the Riverbend factory for SolarCity. Fort Schuyler's Request for Proposal required that the builder be from Buffalo and have a long list of specific in-house capabilities and experience that eliminated most potential competitors from bidding and potentially doing the job for much less. LP Ciminelli is one of Governor Cuomo's largest contributors in Western New York.
- In Syracuse, Fort Schuyler awarded COR Development a \$60 million contract to build a high tech factory for the Soraa. The RFP for the contract was advertised for three days in a small notice in the back of the Syracuse newspaper. The heads of four construction companies, all potential bidders, told a reporter they never knew about the job but would have competed. COR Development is Governor Cuomo's largest contributor in Central New York.
- In Albany, a Fuller Road Management Corporation project to build new dorms for the University of Albany is under investigation for bid rigging after a member of Fuller Road's board of directors purchased possible locations for the new dorms before the RFP was issued. The board member's company, Columbia Development, is located inside a building owned by SUNY Polytechnic, which controls Fuller Road. Columbia Development is one of Governor Cuomo's largest contributors in the Albany area.

Your Committee, the Assembly and the legislature can do a great deal to make sure taxpayer handouts to businesses are fair, clean, and sensible. The legislature should stop voting for business subsidy appropriations until major reforms are adopted.

Recommendations for improving transparency, accountability and effectiveness of state economic development spending.

1. Hold separate annual oversight hearings on the largest business subsidy and economic development programs. Start with SUNY Poly and the use of state controlled non-profits. It's your job to do more oversight.
2. Create a single, online, "Database of Deals" that lists the details of all direct subsidies to businesses. The Database can take the best features of existing subsidy transparency websites in Maryland, Florida, Indiana, Wisconsin, and North Carolina.
3. Give the Comptroller's office pre-contract review of SUNY Research Foundation, SUNY Poly, and all state controlled non-profits and entities. This is a proven, cost effective way to reduce corruption and the waste of public funds.
4. Apply state procurement, fair bidding, and conflict of interest rules to state controlled non-profits like SUNY RF, SUNY Poly, Fort Schuyler, and Fuller Road.
5. Restrict campaign contributions from people doing business with the state --- including receiving grants and contracts. New York City and at least 19 states have "pay to play" laws and they work. In New York City, campaign contributions are capped at \$400 per election cycle, and LLCs are banned.
6. Disallow organizations employing the board members of any state controlled non-profit or entity that spends economic development funds from receiving contracts or funding from the state. Disclosing conflict and recusing from voting is completely inadequate and does not recognize the reality that board members have influence and access to information that gives their groups an inherent advantage.
7. Create a uniform, specific, definition of a "job" to allow the public and legislature to do apples to apples comparisons of job creation targets and results.

These are just some measures that need to be adopted and others probably have more. The larger point is that the existing process for handling our state economic development funds is not clean, not fair, and cannot be shown to be a better use of government funds than traditional investments.

Thank you.