

Rosenstein Law Offices, P.C.

DEVELOPMENT INCENTIVES IN PERSPECTIVE

In today's competitive, return-driven business environment, site selection strategy increasingly reflects benefits offered by economic development incentives. Corporations considering an expansion or consolidation of facilities must take a hard look at the opportunities – and potential pitfalls – of development incentive programs.

What Are Development Incentives?

Development incentives are part of the larger realm of economic development. They originated in Southern agrarian states that wanted to grow their economies by attracting manufacturing jobs. Today, incentive programs are available in some form throughout the United States, and run the gamut of issues integral to the profitability of business operations in any location.

From the corporate perspective, incentives are growing in importance and entering the site selection process earlier. From the community perspective, incentives are receiving more critical examination. Because both economic and political capital are limited, communities are now looking toward performance-based incentives that phase in over a longer time period, and away from incentives that provide up-front money. As the trend shifts away from big-dollar giveaways, creative thinking plays a larger role in developing the menu of incentives. Together, corporations and communities can work out creative solutions to development problems, benefiting everyone concerned.

Incentives Menu and Trends.

Project incentives include monetary aid (in cash or kind) as well as non-monetary assistance (sometimes overlooked in the rush for the gold). A brief catalog of incentives includes:

Monetary

- Tax abatements and programs for payments in lieu of taxes (PILOTs) on real and personal property, machinery, equipment and inventory, etc.
- Tax credits for job creation and capital investment
- Sales- and use-tax exemptions
- Assistance with land acquisition as well as infrastructure and site preparation costs
- Financing assistance in the form of grants, loans, industrial revenue bonds (IRBs) and tax increment financing (TIFs)
- Training assistance (cash reimbursements)
- Enterprise zone-based programs such as Keystone Opportunity Zones (KOZ) in Pennsylvania and Renaissance Zones in Michigan
- Business retention programs such as Illinois' Economic Development for a Growing Economy (EDGE) program

Non-monetary

- Fast-track permitting
- Environmental compliance assistance
- Zoning assistance
- Training assistance (in kind)

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Creativity, Education and Negotiation.

Some incentives are available just for showing up, conferred as a matter of law on any company that applies for them; others must be identified, requested, qualified for and negotiated.

The process requires a good deal of creativity and know-how. Because economic development involves a public/private relationship, which is more complex than a purely business-driven economic model, a number of essentially political factors come into play. For instance, a project might gain an advantage from being the first of a new administration, incentive program or bond cap allocation year. Or a corporation might benefit by being the anchor tenant or owner in a new office or industrial park, or the initial prospect of an industry newly targeted for growth within a state.

To identify and capitalize on the full range of incentives, a site selection consultant must understand the client company's business strategy and the impediments to the strategy that each potential site poses. In turn, the site consultant must educate the community about the client company, its goals for the project, site-specific impediments and benefits the project could produce for the community. With this groundwork in place, it is then possible to enlist the help of governmental and economic development representatives as part of the team striving to make the project a reality. The incentive process is less a negotiation than an ongoing dialogue between company and community that will create a win-win situation for both. Only when all parties work together can they generate creative solutions that remove the impediments to reaching a common goal.

Caution!

While economic development incentives offer tremendous opportunities for companies, nothing comes without risk. For example:

- Companies have come to regard incentives as a way to provide meaningful economies in capital and operating costs, particularly in balancing the project budget or producing an internal rate of return sufficient to move the project forward. The danger lies in placing the responsibility for balancing the project budget on incentives that may not be achievable, or allowing incentive dollars to thwart sound site selection criteria.
- The general community environment -- a critical factor in a project's long-term success -- is too often overlooked. Allowing dollar incentives to distract from quality-of-life issues is a short-sighted fallacy.
- In identifying and negotiating for economic development incentives, creativity is more than value-added, it's essential. A blinkered approach can mean losing cost-saving opportunities or, worse, eliminating the best available site choice because a simple problem wasn't simply solved.
- Follow-up and follow-through are critical to the incentive procurement process. Up to half of all negotiated incentives are lost because companies fail to apply or qualify for the incentives, follow procedural requirements, or ensure that the incentives promised are actually provided.

Requirements for a Good Site.

- An attractive quality of life
- A skilled and educated labor force
- A favorable business and regulatory environment
- Community cooperation
- Adequate infrastructure, utilities, communications services and transportation
- A suitable physical location

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- Proximity to suppliers and customers
- Competitive incentives, including those that add value to the project by solving site problems

Team Tips.

A successful working relationship between client and economic development consultant maximizes opportunities for incentives that can reduce capital expenses, decrease operating budgets and ameliorate site penalties. Building a strong team and obtaining the most benefit from it requires:

- Involving incentive consultants from the beginning of the project
- Incorporating real estate, finance, law, engineering and operations, as well as incentives perspectives
- Meeting frequently and using technology to share information seamlessly
- Speaking with one voice, so that conflicting or confusing information is not disseminated to the community

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