

Tompkins County Industrial Development Agency Economic Incentive Recapture Policy

Introduction

Recapture policies are a response to a concern that public sector economic development incentives are not achieving desired results. There have been several national, high profile examples of large public sector investments in private sector developments that, by any measure, have not yielded the new jobs or taxes projected.

Tompkins County has been fortunate in that the return on public sector investment in private sector development has generally met or exceeded expectations. As the County moves forward with a more aggressive economic development strategy, perhaps including an external marketing campaign, it is appropriate to adopt a policy that maximizes the return on public investment in economic development.

Application for Economic Development Assistance

It is assumed that existing applications for assistance require historical and projected financial information as well as detailed information concerning the incentive requested. These applications will be modified to include the following:

1. A list of all public subsidies received by the applicant or the applicant's parent company during the preceding ten (10) years to include the following:
 - a. the type of subsidy received such as property tax abatement, industrial revenue bonds, direct loans or loan guarantees, grants, technical assistance or employee training;
 - b. the amount and term of the subsidy;
 - c. the public benefit that was projected such as job retention or increased property tax revenues;
 - d. the public benefit received;
 - e. name and contact information for organization granting subsidy.
2. A description of the construction jobs resulting from the proposed project, including the following:
 - a. the estimated total number of jobs that will be held by Tompkins County residents;
 - b. the estimated wages and value of fringe benefits to be provided.
3. A description of the permanent jobs resulting from the proposed project, including the following:
 - a. existing employment by category with wages and benefits;
 - b. projected new employment by year for three (3) years by category with wages and benefits.
4. A description of the jobs that will be lost, if any, as a result of the proposed project, including wage and benefit information. This particularly related to productivity improvements.
5. A description of non-employment-related economic benefits, including the following:
 - a. property taxes and special assessments by jurisdiction for three (3) years;
 - b. sales tax on construction materials, furnishing and fixtures for the initial project;
 - c. mortgage recording tax;
 - d. purchases from local suppliers or subcontractors on an annual basis for three (3) years.

6. A summary of the company's products and markets particularly as they relate to possible competition with other Tompkins County companies.

Reporting Requirements

1. On an annual basis for the duration of the term of the assistance provided, the company will provide the following information:
 - a. average annual employment by category with wage, benefits and residence of employee;
 - b. property taxes and special assessments paid;
 - c. local and New York State sales tax paid;
 - d. any other information relevant to the project that the IDA deems appropriate.

Recapture Provisions

1. If the company shifts production activity to a facility outside of Tompkins County and, as a result, fails to achieve the economic benefits projected, then the IDA will declare the agreement to be in default and require the value of the incentives utilized to date to be repaid, with interest (determined as the New York State legal interest rate).
2. If it is determined that the economic benefits projected have not been achieved for reasons other than described above, then the IDA will afford the company a hearing where the company can be heard as to the issue. The following criteria will be used to determine if a valid explanation exists for failure to achieve the economic benefits projected by the company.
 - a. Natural Disaster: if a natural disaster such as a fire, flood, or tornado disrupts the business
 - b. Industry Trends: An evaluation of industry trends will be made relevant to the company, and a determination reached as to whether the company is in a market that is declining. International and national data will be used in the evaluation. An industry is considered in decline when, measured by the appropriate SIC code, it experiences employment or revenue declines--beyond its control--of 10% or more over 3 years.
 - c. Loss of Major Supplier or Customer: if the loss of a customer or supplier represents 15% or more of the sales of the company
 - d. Productivity Improvements: if new technology, equipment or general productivity improvements result in the need for less than projected employees or investment
 - e. Unfair Competition: if an international competitor utilizes an unfair competitive advantage to acquire market share
3. If the IDA, based on criteria outlined in points 1 and 2 above, then determines that the company's reasons for failing to meet the economic benefit projections are invalid, the IDA can declare the agreement to be in default and require the value of in the incentive utilized to date to be repaid, with interest.
4. The IDA granting the economic incentive retains all rights to impose, delay or waive penalties.
5. The policy is effective as of the date of project approval and applies to all current and future projects.