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Which Local Governments Have the Most Bargaining Leverage?

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It is easy to criticize local governments' use of financial incentives for business retention and attraction. Critics say that incentives cost more than the public benefits they create and redirect monies from other important public goods like infrastructure and education. They argue that incentives poison interjurisdictional relations, contribute to sprawl, favor large businesses over small, strain the planning capacity of local government, and are subject to the worst kinds of cronyism and abuse (for an inventory of such abuses, see LeRoy [2005]).

However, calls for both federal legislation that could eliminate the practice of incentives (Burstein and Rolnick 1994) and regional truces that could reduce their use have been largely ignored. Public officials and fiscal watchdogs alike admit that, despite their general distaste for incentives and the competitive interjurisdictional relations they have created, such programs are difficult to condemn across the board. Incentives, along with zoning and land use regulations, are one of the few sources of leverage that local governments possess in their negotiations with developers and businesses.

Local governments use these economic development tools in different ways and to different effect. Whereas some jurisdictions are held hostage to demands of businesses and sign off on expensive long-term commitments, other states and cities negotiate better agreements. Some local governments have used incentives strategically to influence both the site-location decision as well as the magnitude of private investment. These dealmakers absorb relatively little risk and commit relatively little up-front investment in relation to the public benefits created.

In other cases, however, "subsidy programs and deals have become so astronomically expensive that they can only be fairly described as 'soak the taxpayer' scams" (LeRoy 2005, p. 34). Anecdotes of states and cities spending (or foregoing tax revenues) upwards of $500,000 *per job created* abound.

What is a "good deal" from the public sector's perspective, and why do some states and cities craft better deals than others? This chapter provides some insight into the context in which the public sector and private business negotiate agreements; it also describes the elements of a well-designed deal from the public sector's perspective.[1] The final section identifies the different sources of bargaining leverage from which local governments and business draw in order to partially explain the observed variation in deal structure.

BARGAINING ENVIRONMENT

Regulatory Context

Development incentives and regulatory environments matter less to businesses when deciding between distinct regions of the country. Proximity to key markets and suppliers, labor and transportation costs, and the whims of corporate executives are more important at this stage. Once the business has narrowed its choice of location to a particular region, however, it begins to consider the tax burden and physical characteristics of potential sites. The site location decision could be a relatively private affair, whereby the company purchases land, hires a developer and employees, and pays whatever taxes are levied on its property, employees, sales, and income. Aside from obtaining the requisite building permits and complying with existing zoning and environmental regulations, the business could have little direct contact with the public sector.

Protracted negotiations ensue only if expectations are raised, that is, either the business wants something more from local government, or the local government wants something more from business. What exactly comprises *more* is contested because public and private responsibilities in economic development are not fixed and unchanging. The principle, for example, that a city should not be responsible for the development costs of individual businesses (because this falls squarely within some kind of proprietary private realm of responsibility) is difficult to support given the historical reality of public assistance for business. The courts have tried to resolve the issue by requiring local governments to document and prove the "public purpose" inherent in every act of targeted assistance (Schoettle 2003). But 200 years of incentive use in the United States have stretched the public purpose doctrine beyond recognition, blurring the boundaries of public and private roles and making it impossible to defer to principle or precedent (Sbragia 1996). Every case, therefore, must be negotiated on its own merits.

State governments have historically limited city taxing and spending power to curtail the cronyism, wasteful expenditures, uncontrolled borrowing, and general profligacy associated with municipal financial governance (Frug 1980). But they have also authorized municipalities to engage in development negotiations and, beyond an initial grant of authority, have often provided little to no guidance to them in terms of what to offer and expect from subsidized businesses (Briffault 1997). Even within the same state, local governments lack uniform criteria for allocating funds toward business attraction and retention. The variation in deal structure reveals multiple local economic development "regimes" and cultures that have evolved over time, with little interference from higher orders of government.

Depending on one's perspective, this reliance on negotiated strategies at lower levels of government is either the result of a historic oversight, whereby such practices had become entrenched before they could be regulated, or the intentional by-product of a federalist system of governance. Cities and states have fought to preserve their autonomy from higher levels of government and have, in the case of economic development, exhibited a preference for more informal and decentralized strategies. The economic theory of jurisdictional competition advanced by Tiebout (1956) and developed by Peterson (1981) provide *post facto* support for this kind of decentralization by arguing that a combination of independence in public strategy and choice in private location decision will lead to regulatory outcomes that are aligned with citizen preferences in a dynamic equilibrium.

Interests

Businesses and governments are not likely to agree on what constitutes the "ideal deal" due to the conflicting nature of their interests. Business wants to maximize profits, and can best do so when local governments agree to absorb risks and pay for costs that the business would otherwise shoulder (e.g., taxes, infrastructure, job training). Public interests are more complex, broad, and diffuse: improving the general welfare of citizens through the provision of tax-funded services.[2] Public officials can achieve this objective if they strengthen their economic base (retaining and attracting business) with minimal expenditure. Because strengthening an economic base is a formidable and unmanageable goal, public economic development practitioners tend to "shoot low" and focus their efforts on a tangible outcome: attracting businesses to their locale (Rubin 1988).

While it may initially appear that one party's benefit is always the other's burden, a gray area exists where mutual gains may be had. This is because public and private interests are interdependent: both parties need the other in order to attain their objectives. Businesses rely on a public service infrastructure, property security, and a stable business environment whereas governments depend on tax revenues, employment, indirect and induced spending, and the physical development businesses provide. A deal that allows a firm to add more staff will help it to grow to meet increasing demand for its products while a municipality in need of jobs for its un- or underemployed population also values these jobs. The notion of a "spillover effect" captures and complicates the interdependence of public and private interests. Development subsidies selectively mitigate some of the costs of doing business for individual firms, but advocates contend that assisting individual projects will lead to areawide improvements and the sharing of public benefits.

Deal structure depends on both parties' ability to persuade the other that their interests are symbiotic and served equally well by the agreement. If a business is able to convince local governments that their interests overlap entirely ("what's good for General Motors is good for Detroit"), governments may be excessively accommodating and assume many of the costs of private land development and infrastructure. If a municipality can convince a business that it is getting a special deal on land in an up-and-coming inner-city neighborhood, that business is less likely to demand generous tax incentives.

Power

Despite their interdependence, local governments and businesses do not always negotiate on equal footing. Local governments are handicapped by the fact that they are embedded in space and not footloose like business. Because they are constrained by interjurisdictional competition for private investment, public entities are dependent on private business to pay for basic services and infrastructure (Peterson 1981). They may be more likely to offer compromises so that deals end closer to the business' initial proposal.

Businesses are also better able to control critical information flows during negotiations (Markusen and Nesse 2007). The financial gap companies seek to fill to make a project feasible may be much smaller than they would have the public sector believe. Business tries to assure local governments that the deal would not take place without public assistance (the "but for" condition) (Persky, Felsenstein, and Wiewel 1997). However, they can also bluff about the other sites they are considering and demand more than is really necessary because management has access to relevant information about the firm's own cost structure and hurdle rates to which local governments are not privy (LeRoy 2005; Weber 2002). Government agencies never know the extent to which the business is serious about selecting a location; even if the business has made up its mind, it does better to keep the local government nervously anticipating a change of heart.

Moreover, the private sector starts from an organizational advantage. Local governments often lack flexibility; in order for public administrators to change their initial offers of infrastructure provision, for example, they often have to go back to their city councils or legislatures and engage in a time-consuming process of backroom lobbying (Rubin 1988). Even though local officials try to limit the range of interest groups who can participate in the debate over these issues, community organizations, labor unions, and watchdog groups may try to expose the terms of the deals and insist on protracted public discussion. In contrast, most corporate officials control information and negotiate in a bareknuckled manner, hire consultants and lawyers to help them do so, and rely on internal decision-making structures for expedited action.

Local governments have only recently learned how important good negotiation skills are to protecting their interests. They are subjecting their spending on economic development to more scrutiny and relying on more accountable forms of assistance by looking to the legal framework that governs the performance of private sector contracts for guidance. This changed behavior is not the result of some enlightened attitude—with fewer own-source funds, fewer intergovernmental transfers, and increased community outrage at "corporate welfare," cities have to been forced to be more selective about the businesses and project expenses they finance.

WHAT IS A GOOD DEAL FOR THE PUBLIC SECTOR?

In many ways, the quality of a deal can only be evaluated *post facto*. Did the local government get what it wanted (business retention, jobs, tax revenues) without paying "too much"? At a minimum, the marginal benefits should equal or exceed the marginal costs (including any foregone revenues and additional costs associated with the development) after a reasonable period of time (Bartik 1991; Ledebur and Woodward 1990). But local governments may not have to wait years to evaluate the quality of their deals. Even before the ink has dried and the deal is cut, certain kinds of incentive design are more likely to lead to better outcomes for the public sector.[3] In such deals, the benefits and burdens of public financing are more fairly calibrated, contractual safeguards exist to help governments manage risks, and relevant information is disclosed.[4]

Ex Ante Decision Analysis

Local governments should have some idea of what they want out of a deal before negotiations even begin. Contracts that rely on very loose parameters of fulfillment are considered "incomplete" and provide parties with opportunities to exploit gaps. The state of Minnesota, for example, requires all state agencies and municipalities to develop explicit benchmarks for awarding subsidies.[5] These public purpose benchmarks include standards for job creation as well as for the wages of any new jobs. Job retention is only considered a legitimate criterion "where job loss is imminent and demonstrable." The law requires each incentive-granting agency to submit their benchmarks to the state's Department of Employment and Economic Development and for the department to publish them annually.

With a better sense of their bargaining goals, local governments can better evaluate the costs and benefits of their subsidy programs. Few cities and states actually know the real cost of what they are giving away or what they are getting in return. In a survey of local economic development practitioners, only 24 percent reported any systematic or quantitative means of analyzing deals (Reese 1993). By comparing the present value of anticipated public costs (e.g., foregone revenues and additional expenditures on services, such as schools and infrastructure) to the present value of expected benefits (e.g., increased jobs, revenues generated by salaries of new employees, and multiplier effects) *ex ante*, standard methods of cost-benefit analysis can provide a ballpark estimate of how much the public benefits will cost. The more intangible design amenities, real estate improvements, and environmental mitigation may be valued by comparing them to their market equivalents.

Performance Standards

Local government can make their assistance to private business conditional by including legally binding provisions in the contracts that specify public benefit projections. For example, business may have to commit to creating a certain number of jobs, not relocating within a specified time period, and compliance with higher environmental or design standards. Many state statutes now require contracts to specify a particular wage rate, often based on a percentage of the federal minimum wage or regional averages (see Purinton [2003] for an inventory of jobs standards). Contracts may also stipulate that businesses provide health care benefits to the new or retained employees.

The contractual agreement can specify a reasonable time period for which the business must maintain operations in the locality or create a certain amount of jobs in exchange for its assistance. A Connecticut statute governing a below-market rate loan program states that "Business is prohibited from relocating during the term the loan is outstanding or for 10 years after receiving assistance, whichever is longer."[6] Without a so-called "benefit period," a subsidized company will have an indefinite amount of time in which to fulfill its promises.

At the same time, savvy governments are not excessively rigid in their attempts to embed capital; they understand that it can be difficult to hold firms to their promises about the future given the vagaries of the global economy (Weber 2002). Corporate managers make location decisions in the context of great uncertainties and attempt to rein in the factors they can control: debt levels, capital spending, overhead, and staffing—all of which influence the places where they locate.

Local administrators are left with the challenge of protecting their assets while anticipating the uncertainties inherent in a turbulent business environment. They do this by designing incentives that calibrate the number of jobs or investment to a subsidy *ex post* and by making investments in places, as opposed to individual firms. Unlike an outright grant of funds, performance-based programs provide no assistance to a company *until* it meets specified levels of performance. For example, a firm receives an income tax benefit once it has hired a certain number of workers at a designated minimum wage. The incentive can increase as the number of employees hired grows. The $2.5 million incentive package negotiated between Bismarck, North Dakota, and Coventry Healthcare contained a provision whereby the company agreed to receive progressively larger payments for the subsequent phases or groups of employees hired (Hanson 2002). The city waited to make its largest payment until the final group had been hired.

This kind of payment clause protects the jurisdiction's investment in case the company encounters setbacks or falls behind in its hiring schedule. Performance-based incentives may be less popular with businesses, as they typically prefer to receive lump sum payments to cover development and other start-up costs. With proper monitoring, however, they are easier for the public sector to enforce and respond better to unforeseen exigencies.

Enforcement Mechanisms

Spending time and effort to write detailed contracts and then ignoring the subsidized businesses after funds have "changed hands" is not an effective economic development strategy. If businesses do not comply with the terms and conditions of the agreement as stated, they may have “breached” their contracts. Some contracts include a notice provision to inform the municipality of any changes in the operations of the business, such as the initiation of any lawsuits or bankruptcy proceedings, which might adversely impact the subsidized project.

In other cases, the public sector must devise monitoring requirements. Local governments typically include one of two types of monitoring techniques. The first type places the onus of oversight on the public sector but requires that specified documents be available for public inspection and audit. A more effective type of provision creates an affirmative obligation on the part of the business to provide necessary information rather than to merely allow local governments to ask for the right of inspection. Kansas City, for example, double checks self-reported data from firms against information derived from the city’s employee earnings tax (Weber 2002). Companies are given a grace period of about two to three years to meet the specified standards.

Penalties are less important when municipalities use performance-based incentives from the start. If a state or city withholds funds until the recipient company has demonstrated that it has lived up to its obligation, there is no need to recapture funds because of nonperformance further down the road.

If public funds do change hands up front, however, nonperformance provisions, remedies, and damages should be written into the contract. These provisions generally fall into five categories (Ledebur and Woodward 1990):

1) Recisions: canceling a subsidy agreement if job and revenue projections are not met.
2) Clawbacks: recovery of all or part of subsidy costs if performance goals are not met.
3) Recalibrations: adjustment of subsidy to reflect changing business conditions.
4) Penalties: additional charges (e.g., the interest accrued on the public’s investment) for nonperformance or relocation.
5) Debarment and suspension: prohibiting the noncompliant company from receiving incentives in the future.

A written contract should represent the complete understanding between parties because informal promises do not hold up well in court. If accountability mechanisms are clear, reasonable, and obvious from the start of negotiations, firms may voluntarily repay the incentive if they renege on their promises, obviating the need for any formal legal enforcement.[7] In 2003, for example, Philips Semiconductor honored its clawback agreement by paying back $13.1 million in tax breaks to the City of Albuquerque, New Mexico, after it closed its plant. United Airlines agreed to pay back almost $32 million in prorated clawback fines (of the $300 million in tax breaks it had received from Indiana government agencies) after it failed to live up to its promise to invest $800 million by 2001 (*Wall Street Journal* 2002). Accountability mechanisms reduce the uncertainty and potential for arbitrary behavior that plague incentives on both sides of the bargaining table.

WHAT KINDS OF GOVERNMENTS NEGOTIATE GOOD DEALS?

Nonetheless, many local governments continue to fear that the above-mentioned contractual mechanisms will lower the value of the incentive for the business if the business perceives future tussles with the law, a lack of flexibility on the part of the public sector, and additional reporting requirements and compliance costs. Many states and cities resist the use of the contractual protections mentioned above and enter into deals where they accept the bulk of project risks for little return. When the state of West Virginia loaned over $64 million to Anchor Hocking to help the company keep its plant open and provide jobs to its employees, it failed to state these goals in the actual loan documents. When the company closed its plant, the absence of a specific goal, coupled with a contractual provision allowing prepayment of the loan without penalty, led the court to conclude that the firm had satisfied its obligations by paying off the loan (*West Virginia v. Anchor Hocking* 1988).

Conversely, some governments take a rigid bargaining position, refusing to negotiate altogether or make any concessions. The assumption of fundamental interest conflict (i.e., zero-sum bargaining) underpins the notion that firms seek only to extract wealth from the locale and that cities try to extract as much as they can from the firm. Such adversarial assumptions lead local governments to adopt overly protective regulatory strategies: for example, exactions on corporations disproportionate to the costs associated with new development. Such behavior may discourage business activity. Although perceptions of its impact vary in hindsight, the city of Cleveland experienced an investment "strike" following then-Mayor Dennis Kucinich's refusal to subsidize a large retail redevelopment in the absence of a living wage guarantee.

Why do some states and cities negotiate safeguards to manage risks and assure performance while others potentially jeopardize their fiscal health? Why do others adopt overly demanding and rigid postures? This last section seeks to generalize about the features of local governments that may influence their bargaining leverage.

Leverage implies some situational advantage—those who have it have less to lose if the deal falls through. Although space-bound governments start off from a bargaining disadvantage, any locality that has discretionary power to grant or deny requests for changes in density, tax burdens, and zoning has a modicum of bargaining leverage. This is because property development and industrial relocation offer businesses opportunities to increase their profits. The subsidies themselves are perceived to be a source of leverage, which is one of the reasons why local governments continue to offer them.[8] If municipalities had no leverage, businesses would have no need to negotiate with them.

However, the more assets particular places possess, the more leverage and decisional independence they are likely to acquire. This is why those governments with better market positions (relative to their competition as potential business locations) appear to have the ability to be better negotiators. If the private sector needs the municipality more than the municipality needs the business, many of the risks of development can be migrated back to the private sector. The shifting of need occurs in urban areas that are built-out with relatively little available land for development. For example, the attractiveness of Chicago as a location for retail development has allowed the city to require that developers receive tax increment financing (TIF) incentives on a "pay-as-you go" basis instead of front-funding subsidies with bond proceeds (Weber 2003). Structuring the deal this way means that the developer initially pays for the costs of the project and is only reimbursed as the municipality collects the incremental property taxes. This places the onus on the developer (to generate new property tax revenues) instead of on the municipality (to float bonds secured with the incremental tax revenues).

Moreover, in higher income locations with strong tax bases, residents may prefer slower growth, choosing less congestion over more development (Elkins 1995; Goetz 1990). Slow growth measures have been adopted by many municipalities (particularly those on the coasts) and, in these places, citizens have rejected ballot measures that would raise taxes to support new large-scale development. These jurisdictions can afford to be selective, either refraining from the practice of offering incentives or including extensive public benefits requirements in their incentive contracts. They can devalue the threats of businesses in favor of other political objectives. In contrast, poorer places may have to offer more to induce much-needed development and help private investors overcome perceived and actual development risks (Rubin and Rubin 1987).

The desirability of a locale is reflected in the value of its land. Indeed, those municipalities with a valuable land inventory (i.e., publicly owned properties) are able to extract benefits from potential developers (Elkins 1995). With the Yerba Buena development in San Francisco and California Plaza in Los Angeles, the respective cities took on more risks but were able to secure from private developers expensive new cultural facilities and public spaces (Sagalyn 1997). They used the power of rising land values and a scarcity of developable sites to negotiate for additional developer contributions to their ambitious mixed-use projects. Because of the desirability of these sites, the municipalities crafted deals in such a way that the developers were able to achieve their anticipated rates of return. Expensive homes provided the tax base needed to pay for the bulk of city services so that the overall tax burden on businesses was not considered so high as to require abatements.

For these reasons, one might expect to see those local governments with higher initial levels and rates of growth in a superior bargaining position relative to those more desperate for private investment. Indeed, jurisdictions such as Berkeley (CA), Westchester County (NY), and Cambridge (MA) include public benefit requirements, such as job quality standards, in their incentive contracts. These jurisdictions are not as concerned about their competition because they know their highly educated residents and positive reputations are already a draw for particular kinds of business.

But not all such governments play their (upper) hands. For example, New Jersey, a wealthy, high-tax state, just passed a law that would allow it to borrow to pay for incentive grants in any year when the state legislature does not appropriate the money. A recent report found that several high-profile deals between New York City and businesses contained “employment cushions” that allowed companies to lay off employees without such actions breaching their contracts (Good Jobs First 2004).

Nor does this rationale explain why many lower-income jurisdictions are proponents of more accountable deal making. Good Jobs First lists the 43 states, 41 cities, and 5 counties that attached job quality standards to at least one development subsidy (Good Jobs First 2003). On this list, many poor, fiscally challenged jurisdictions stick out—Detroit, St. Louis, and Rochester, to name a few.

Factors unrelated to the wealth of their residents appear to be at play. Elkins (1995) finds that more progressive strategies were adopted by municipalities with higher unemployment rates. Perhaps, it has been argued, some poor municipalities experience such high degrees of political activism that local governments are pressured into good behavior (see, for example, Reese and Rosenfeld [2001]; Elkins [1995]). If this is the case, local officials there may propose incentives with more community benefits requirements.

Recent examples of the success of grassroots coalitions in getting community benefits agreements signed in cities such as Los Angeles and Milwaukee attest to the role of third parties in influencing government behavior (Good Jobs First 2006). In the past decade, a community-based movement for corporate accountability has arisen to monitor economic development deals and expose incidents of subsidy abuse. These groups have organized an increasing number of petition drives and referenda to place subsidies and performance measures on local ballots. Their power also lies in their ability to raise community awareness of the deal terms, which may shame companies and the local governments that subsidize them into better behavior. If minorities participate to a high degree in such movements, it may explain why Reese (1998) finds that the larger the minority presence in a municipality, the more likely it was to include contractual requirements of community benefits.

Even if a municipality has bargaining leverage (e.g., due to a scarcity of developable sites and concomitant market appeal), there must be opportunities for exploiting this bargaining advantage. Such opportunities arise only when government and business engage in specific political processes to coordinate interests on specific matters of public policy (Kantor 2002; Elkins 1995). For example, wealthy residential suburbs may not craft ideal deals because they have little available land for new commercial or industrial development and wish to maintain their community's exclusivity. No deals would come to the table so there would be no opportunity to use the leverage that the suburb would, in all likelihood, possess.

Ideal deal-making is likely to arise out of what economists call "repeated games"—similar experiences that build staff's negotiation skills, spur community activism around these issues, and lead to ordinances and statutes that expressly require such mechanisms. This is one of the reasons why larger cities and states (with better-paid staff and more use of sophisticated planning and decision analysis techniques) tend to be better negotiators. Competing with larger cities may induce smaller places in the metro area to mimic their good behavior. One study found that the more strategic municipalities were located in close proximity to cities of similar sizes or were suburbs of a central city (Reese 1998). In contrast, depopulated, low-tax, rural areas have been known to give away the store to lure branch plants.

Local governments comprise part of the distinctive civic cultures of economic development. Some adopt ideal deal structures because they are in keeping with a broader "good government" culture that respects values such as transparency and accountability. Others adopt better deal structures because they are desperate for anything that promises short-term outcomes and willing to try anything and everything (i.e, the "shoot anything that flies" approach). Reese and Rosenfeld (2001) note the importance of differentiating between these two motivations.

Empirical studies have found the use of accountability mechanisms more prevalent on the West Coast and in the Northeast (Elkins 1995; Reese 1998), but that their use cuts across political persuasions. Some of the most conservative, pro-business local regimes have passed the most stringent laws requiring the use of these contractual safeguards. In Indianapolis, for example, it was Republican mayor Stephen Goldsmith who insisted that all new jobs pay at least 90 percent of the area average wage level in order to qualify for property tax assistance, and the city has a reputation for auditing firms and enforcing clawbacks (Weber 2002). In 1996 alone, the Indianapolis Metropolitan Development Commission cancelled tax abatements to five companies who failed to live up to their pledges of job creation (Phillips 1996). Ideal dealmaking is not, apparently, politically partisan.

CONCLUSION

Without empirical research it is difficult to determine which specific factors will predict which political jurisdictions negotiate better deals. It is also difficult to examine whether ideal deals actually lead to ideal outcomes. Although using performance standards is certainly better than giving away subsidies for free, local governments still draft contracts too loosely and enforce them too weakly to get the most from their public investments (Weber 2002).

Often economic development practitioners give up before they start. They figure that even when they write comprehensive contracts, there is no guarantee that businesses will stick by their promises. Indeed, public officials have the power to bargain and persuade, to make concessions, provide incentives and reduce or eliminate local taxes or restrictions, but they do not have the power to compel businesses to move into or remain in the jurisdiction. Drafting contracts takes place within a larger context of suburban, regional, and international competition for business and the context in which it operates has become increasingly unstable and unpredictable.

This fact, however, is no excuse for being a poor negotiator. Specialized real estate investments can help embed footloose firms in the locality and create spillover benefits in terms of jobs, additional investments, and tax revenues. Indeed, sunk costs may be able to soften the market pressure firms feel to traverse the globe in search of the cheapest factors of production. However, the irony is that the more the public sector subsidizes those sunk costs and effectively absorbs part of the development expenses, the less firms have financially at stake in their own investment decisions. Public risk bearing allows firms to be more, not less, mobile. A recent survey by *Site Selection* magazine found that since 1996, corporate migration within the United States "has soared, roughly doubling to more than 11,000 moves a year" (cited in Uchitelle 2000). Widespread use of business attractive incentives has no doubt contributed to some of this movement.

Better public use of these tools, especially a reliance on more performance-based incentives and legal protections to govern breach, remedies, and damages if businesses do not perform as promised, may give businesses pause before they consider yet another corporate relocation. But these contractual provisions will only be effective if more municipalities and states adopt them as routine operating practice. If all governments raise standards in a coordinated manner, accountability mechanisms will not hamper the ability of individual governments to "bid for business"—a habit that has proven hard to break although one whose implementation still needs improvement.

Notes

1. This chapter focuses on those incentives that are negotiated on a case-by-case basis at the discretion of the local government. Other kinds of programs, sometimes called "statutory" incentives, are offered "as a right" if a business meets certain preset eligibility requirements. An example of the latter case is an investment tax credit program that allows any business that meets eligibility requirements to deduct a certain amount from its annual income tax bill. In such a case, no negotiation is necessary.
2. Of course, public agencies must often be reminded of their responsibility to serve wider, public interests—a role that interest groups, fiscal watchdogs, and community organizations take on.
3. Parts of this section are based on a handbook for state and local officials, *The Ideal Deal: How Local Governments Can Get More for Their Economic Development Dollar* (Weber and Santacroce forthcoming).
4. "Ideal deals," as they are labeled in this chapter, closely resemble what other authors have referred to as "Type II developmental strategies" or "programs in which local jurisdictions require private developers to provide a service or public benefit in exchange for development rights" (Goetz 1990, p. 171; see also Elkins 1995).
5. Minnesota Statutes 116J.994.
6. Connecticut Development Authority, Master Guarantee Agreement, Participatory Loan Program 1995. See also Connecticut Public Act No. 93: 218.
7. In a recent interview in *Site Selection Magazine*, a vice president of Toyota denied that states and cities with accountability mechanisms were "crossed off" the list of possible plant locations (Bruns 2004). He advised, "If you're going to

use clawbacks, put them in up front. Don't put them in at the last minute, when you think you have a deal and all of a sudden the lawyers get involved with all these clawbacks nobody talked about. The problem with clawbacks is . . . (i)t's just another bureaucracy to deal with. But I understand why states sometimes use them—with some companies you're not sure of their history and can't test their track record."

8. Scholars have long questioned just how much leverage subsidies provide given that they often comprise a small percentage of total relocation and start-up costs (Fisher and Peters 1998).

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