Maximize *Your* Incentives

These 10 key negotiation strategies will help you unlock the FULL VALUE of your relocation or expansion incentives package.

By Michael R. Press, Managing Director, and Cole Morvan, Director, Business Incentives Advisory; Duff & Phelps LLC

In today's economy and globally competitive environment, it is important for businesses in every industry to continually look for opportunities to reduce costs and enhance value to the bottom line. Regardless of whether a company is in telecommunications, pharmaceuticals, information processing, or manufacturing, there is pressure to do more with less.

As companies have need and opportunity to expand, consolidate, or relocate various functions of their businesses, one method to reduce costs is through the negotiation of business and economic development incentives with various state and local governments. If done properly, the successful negotiation of incentives can shave anywhere from 10 to 30 percent off startup and ongoing operating costs.

However, before any site selection decisions are made and certainly before any contact is made with the economic development professionals, there are 10 key strategies that should be implemented as part of a plan to maximize the value of negotiated incentives.

• **Keep it competitive.** As with any negotiation, maintaining leverage as long as possible is the key to getting the most from the final incentives package. From the moment the universe of candidate states and cities is developed, it is critical that a competitive landscape be maintained. It is even more important when the shortlist of two or three finalist locations is determined to ensure that each location understands that it is still in a competitive environment. When a community or state becomes confident that it has the deal, the company's negotiating leverage may be compromised. Maintaining a legitimate and competitive site selection landscape ensures that each alternative state and city will continue to negotiate in good faith. Like everyone else, economic developers want to win, and competition is the fuel that drives the site selection and incentives negotiation to success.

• **Demonstrate how the community benefits from your project.** It is possible, and indeed desired, for both the company and the community to be perceived as the "winner" in the incentives negotiation process. For many projects, the use of an economic impact study by an objective third party will provide an independent view of the benefits that the various taxing jurisdictions and community at large will receive by attracting your business. Such a study brings into focus the highly significant increased tax revenues to come from other businesses and households throughout the community whose economic performance is raised by your project. It helps answer the "What's in it for us?" question the public might ask when determining the extent of financial incentives to be awarded.

Clearly and concisely demonstrating these benefits to the community allows the government's economic developers and elected officials to stand behind what otherwise might be viewed as an overly aggressive incentives package. Ultimately, the benefits to the community will far exceed the forgone tax revenue and other governmental costs associated with it. Most communities are more than willing to incur short-term costs in return for permanent economic and fiscal gains.

• **Adopt a strict internal communications protocol for the project.** As the saying goes, "Loose lips sink ships." This is especially true in the site selection arena. Many projects have been compromised and the negotiating leverage diminished when inaccurate information gets into the public realm prematurely. Companies need to develop a strict and tightly controlled communication process. Ideally, there will be a single point of contact, whether internally with the company or through a consultant, who is responsible for all communication and interaction with the economic development professionals. This will ensure that only accurate and approved information is shared and will allow the company to maintain its negotiating leverage.

• **Know what to ask for and when to ask for it.** The most effective negotiator knows what the opposing side is authorized to offer. Commencing a negotiation without this knowledge can lead to a good deal of unnecessary tension and frustration for everyone. It is incumbent on the company to outline a detailed list of incentives that are within the government's authority to offer, and that will bring significant value to the company's bottom line. Normally, the best approach is to be asking several communities simultaneously, during the site selection process, to assist in estimating the value of the potential incentives they can offer, so that a better informed site decision can be made. Simply asking, "What can we get for our project if we bring it here?" will result in a "standard" incentive package that does not address the issues that may be important to the company.

Also, at the point the incentives negotiations are concluding, the company should be prepared to request a deal closer, meaning if the city and/or state can do "X," the company is prepared to select them for the project. The goal is not to get an incentive proposal; rather, the goal is to negotiate an incentive package that has maximum long-term value to the company.

• **Maximize the impact of tax rulings.** Oftentimes, a favorable income tax apportionment ruling will far exceed the value of the best standard economic development package. For this reason, the company's internal tax department should be involved in developing the negotiating strategy and list of incentives being sought.

• **Identify and negotiate incentives that are non-financial or no-cost.** As part of the incentives package, there will be opportunities to negotiate soft incentives, meaning incentives that do not cost the taxing entities in forgone tax revenue or grants. For example, fast-track plan review, permitting, and building inspection is an incentive that has value to the company but does not require the government entity to absorb out-of-pocket costs. Tax-exempt financing is another example of low- or no-cost incentives. Reaching agreement on these kinds of incentives is usually easier and establishes a positive negotiating environment that will be helpful when the negotiations get tough.

• **Beware of the first offer or the standard package.** Consider the first proposal as just that, a first proposal. Like all negotiations, each party attempts to maximize its position (incentives) or minimize its impact (cost). It is reasonable and expected that there will be multiple rounds of counteroffers until the final incentives package is agreed to by all parties. At some point, the government economic developers may indicate that they have provided their "best and final offer" (BAFO), at which point the company can determine if the BAFO is enough to seal the deal or if the project needs to focus on another location. (Hopefully, there is another location still under consideration so the development/occupancy timeline is not unduly delayed.) Receiving a polite "no" when requesting "sweeteners" is preferable to leaving something on the table and reading about your competitor getting a better deal.

• **Be conservative in your commitments.** Many companies like to be overly optimistic when providing capital investment and new job creation estimates to economic developers, believing the more aggressive the numbers, the more aggressive the incentives package will be. While incentives are usually based on the proposed capital investment and job creation, it is better to be conservative than overcommitted. The company must remember that what is committed to in the negotiating room will be reported in the local news media when the project is announced. Keep your commitments reasonable and achievable.

• **Be prepared for:**

(a) a lot of paperwork. Most incentives packages will be formalized in development agreements, contracts, and by state/local government ordinances. The company should include its internal or external legal counsel on its project team and make sure they are prepared to review and negotiate the language in the various legal documents that will be necessary to memorialize the incentives agreements.

(b) scrutiny of your plans by government officials. When a company requests a package of incentives in return for an economic development project (corporate relocation, for example), the state and/or local economic developers will request certain information from the company that will help them prepare their proposal. Financial statements, annual reports, payroll information, etc. are commonly requested. Be prepared to know what you can and are willing to share. It may help to require that a confidentiality agreement or nondisclosure agreement be executed with the governmental entity. Also, make sure to understand the open records laws in the alternative cities and states and whether economic development organizations are required to disclose confidential information if requested.

(c) recapture provisions. Increasingly, state and local governments are insisting on their ability to recapture those incentives, either in whole or in part, that have been received by the company, should the company fail to meet their job and/or investment commitments. Frequently, such provisions can be relaxed through the negotiation process. Occasionally, however, they are strictly mandated and could prove onerous or even punitive.

• **Don't import your consultants.** Incentives consultants from outside the region may not be prepared or experienced enough to negotiate the best package of incentives possible for the company. Consultants who live in the state or a neighboring state and maintain a continual dialogue with the area's economic development officials will be more knowledgeable of state and local incentives programs. This allows them to know what can and cannot be negotiated and should result in a maximized incentives award. There is no learning curve involved.

If the company forgoes the use of a consultant and negotiates the incentives with internal resources, it should include local executives and plant managers to the extent possible. Everyone likes to work with experienced professionals who are familiar with their programs and processes. Moreover, regional resources are viewed as having a significant stake in the outcome, in that they are part of the regional community, too, and care about its economic well being.

By applying these 10 strategies, any company will be able to work effectively with the various state and local governments that are under consideration for its corporate expansion, consolidation, or relocation project. Ultimately, the result will be a project that is characterized by that win–win situation that everyone hopes to achieve. AREA

Michael R. Press is a managing director in the New York office of Duff & Phelps LLC, in charge of the Business Incentives Advisory (BIA) practice. Cole Morvan is a director in the Dallas office of Duff & Phelps' BIA practice. The BIA practice consists of local professionals who have served in both government and non-government consulting roles, located in key cities throughout the United States. The opinions expressed in this article are the authors' alone and do not represent the position of Duff & Phelps LLC or their clients. Mr. Press can be reached at (212) 871-5853 or michael.press@duffandphelps.com; Mr. Morvan can be reached at (469) 547-3904 or cole.morvan@duffandphelps.com.

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