

Accountability & Performance Policy

**For State “Deal Closing” Incentive
Grants (REBA & EDGE)**



Background — Local Authorities & sale/leasebacks used to avoid problems

- State Forgivable Loans (direct assistance from state to business) determined problematic via State Constitution
- State REBA (and now EDGE) “grant” programs transformed to provide similar incentives through grants to local development authorities who finance assets with leaseback to businesses.



Background — Public Benefits Justify Incentive Grants

- State public benefits justify State incentives
- Local public benefits justify local incentives
- Public benefits = jobs, investment, etc.



Background — Growing Use of Incentive Grants

- To date -- State encouragement and acceptance of claw-back provisions within local MOUs and/or Leases that cover BOTH State and local incentives
- With OneGeorgia EDGE + REBA, State's investment in deal closing incentives has grown markedly



State Accountability Policy

- Cover State incentives through State accountability provisions within State Grant Agreements
- State → Dev Auth → Company
- Requirement for Local Dev Auth to understand, accept and pass-on accountability to Company



Local Responsibility

- State requirement of a separate state claw-back agreement mentioned in local MOUs that cover the State's incentives
- Continued State encouragement of local claw-back provisions within local MOUs that cover local incentives



Local Responsibility

- The Recipient is accountable for proper management of the REBA or EDGE grant
- The Company will generally be accountable for the delivery of public benefits unless the local development authority expressly requests to shoulder the accountability



Accountability Structure

- General and Special Conditions within Grant Agreement for FTE Jobs & Private Capital Investment
 - Must deliver at least 70% of benefit within established performance period (generally 24 months after Certificate of Occupancy + limited extensions)
 - Benefit calculated as average of the percentages of jobs created and actual investment
 - Below 70% benefit – prorated repayment required



Claw-back Structure — Example 1

- Grant Amount \$500,000
- Commitment — 600 jobs & \$5,000,000 investment
- Actual jobs delivered — 400 (66%)
- Actual investment delivered — \$3,500,000 (70%)
- $66\% + 70\% = 136/2 = 68\%$ Overall Benefit
- \$340,000 (68%) of grant is OK
- \$160,000 (32%) would have to be repaid



Claw-back Structure — Example 2

- Grant Amount \$500,000
- Commitment — 600 jobs & \$5,000,000 investment
- Actual jobs delivered — 600 (100%)
- Actual investment delivered -- \$3,000,000 (60%)
- $100\% + 60\% = 160/2 = 80\%$ Benefit
- No repayment required



Accountability Measures*

- Written Accountability Agreement (can be recorded)
- Administrative Sanctions
 - Ineligibility
 - Withholding of payments, etc.
- Legal Sanctions – Suit for a Judgment after default occurs *

* *Pending legal review*



Contacts and Comments

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