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# From Local Law 69 to Local Law 48

In a June 2001 report, “[Full Disclosure? Assessing City Reporting on Business Retention Deals](#),” IBO took a critical look at the information presented in the first seven reports produced by the Economic Development Corporation (EDC) in compliance with Local Law 69 (LL69). The issues we raised ranged from the distribution of the reports to the quality and completeness of the cost, benefit, and employment data they contained. In response to criticisms by IBO and others, the City Council enacted Local Law 48 (LL48), superseding Local Law 69. While the data contained in the LL48 reports is more complete and the reports are more readily available, some of the questions concerning the quality of the LL48 data remain unaddressed.

**Local Law 69.** IBO found profound shortcomings in the data provided under LL69 that make it impossible to do meaningful estimates of a project’s economic and fiscal impacts, or even to compare one project with another. Information on the duration of many projects was not included, and for deals where city assistance is provided for more than the seven years that EDC was required to publish data, these additional costs and benefits were ignored.

Moreover, the reports systematically understated the fiscal costs to the city and overstated the fiscal benefits. Some costs, such as income tax revenue foregone when tax-exempt bonds are issued or the inherent discount of below-market sales and leases of real property, were not included in the calculations. Conversely, fiscal benefits were overstated because the reports’ methodology was based on the extreme assumption that in the absence of EDC’s deals, the firm, all of its employees, and many of its suppliers and their employees would leave the city. Under this assumption, even the property taxes paid by a firm on its land and its building were assumed to be lost without a deal—despite the fact that taxes are paid by property owners regardless of whether or not the space is occupied.

Beyond understating costs and overstating benefits, IBO found problems with other data series included in the LL69 reports. Employment data for the businesses and nonprofits receiving benefits was neither collected nor reported in a consistent manner across different retention deals, and for specific deals it often varied significantly from year to year. Moreover, information was often incomplete and did not make clear how many jobs beneficiaries are obligated to create or maintain in order to continue receiving benefits.

IBO also raised questions about the production and distribution of the reports. The reports generally were not produced within the six months after the close of the fiscal year, as was required by the law. Moreover, distribution was limited to the absolute minimum legally required—single hard copies delivered to the Mayor and the office of the City Council Speaker—making the report generally unavailable for public scrutiny and timely analysis.

Without reliable employment information and a more comprehensive and sophisticated method for calculating fiscal costs and benefits, IBO and others concluded that the Local Law 69 reports simply did not provide a means by which the Council or the public could evaluate the effectiveness of the city’s discretionary economic development incentives. (See also “Audit Report on the Administration of Job Retention Agreements by the Economic Development Corporation,” Office of the Comptroller of New York City, Bureau of Management Audit, September 1997, MH96-183A.)

In response to criticisms of the Local Law 69 reports made in print and in testimony by IBO and others before the City Council’s Economic Development Committee, EDC’s reporting requirements were revised in 2005, when the City Council enacted Local Law 48.

**Local Law 48.** LL48 addressed some—but not all—of the problems of its predecessor. Perhaps the biggest improvement was the requirement that EDC would report on future projects for as long as assistance is provided. More specifically, for projects begun after July 1, 2005, EDC is obligated to report the time span over which the projects are to receive assistance, information through the final year in which assistance is provided, and either the maximum amount of assistance to be provided (if stipulated in the incentive agreement) or an estimate of the total amount of assistance to be provided for the duration of the project. Moreover, the new law dictated that EDC report its estimates of the fiscal costs and benefits of a project. Though these requirements for more complete reporting do not apply to projects begun before July 1, 2005, EDC has made an effort to conform the reporting on projects begun earlier—as far back as 1999—to the new requirements.

Local Law 48 also addressed one of the major problems in EDC’s estimates of fiscal benefits. For projects

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begun after June 30, 2005, only the portion of the real property tax resulting from improvements to real estate could be included in the sum of tax revenue resulting from the project.

Local Law 48 has increased the quantity of employment data provided in EDC's annual reports, for example, by requiring the reporting of both the number of jobs at the project site at the start of the project and the number of jobs the beneficiary is contractually obligated to retain over the project's life. But much of the employment data included in the LL48 reports remain inconsistent or incomplete.

Finally, LL48 expanded the scope of the reports by reducing the threshold for a project's inclusion and made the reports more readily available by posting on EDC's Web site every report from 2005 on. Unfortunately, the online reports have not been machine readable and therefore cannot be readily used by policymakers and researchers to analyze the data the reports contain. Legislation enacted in November 2010 directs EDC to post LL48 reports in a "commonly available non-proprietary database format," beginning with the 2012 report.

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