

**Testimony of Francesco Brindisi, Vice President and Chief Economist,
New York City Economic Development Corporation
at an oversight hearing of the New York City Council
Committee on Economic Development
September 21, 2009**

Thank you chairman White and members of the committee for inviting the New York City Economic Development Corporation (NYCEDC) to testify on reporting requirements relating to economic development benefit programs. My name is Francesco Brindisi and I am a Vice President, the chief economist and the department head for Economic Research and Analysis at NYCEDC. I am joined by Howard Spieler, Senior Vice President and Director of NYCEDC's Compliance department, and by James Harris, Assistant Vice President in NYCEDC's Government and Community Relations Department.

NYCEDC's primary mission is to encourage economic development throughout the five boroughs, assist in the retention of existing jobs and the creation of new ones, and to help both large and small businesses grow. We do this in a myriad of ways, including the administration of discretionary economic development benefits. In particular, NYCEDC's Transaction Services and Energy groups provide discretionary financial assistance to investment projects under the authority of the New York City Industrial Development Agency (NYCIDA), the New York City Capital Resource Corporation (NYCCRC), the New York City Public Utility Service (NYCPUS) and the Business Incentive Rate (BIR) program, contingent upon the realization of specified investment and/or job commitments.

Furthermore, NYCEDC makes underutilized City-owned properties available for sale or lease to private companies and organizations willing and able to invest in development or expansion for economic development.

First, I will give an overview of NYCEDC's reporting requirements on said discretionary financial assistance and land sale and lease activity, highlighting certain recent changes in Local Laws. I will also give a brief overview of NYCEDC's compliance and monitoring efforts as well as the transparency requirements on the NYCIDA.

I will also discuss NYCEDC's role in evaluating economic development programs not administered by us, but that provide incentives to private investment in the City. In particular, I will give an overview of the study that NYCEDC carried out in collaboration with the NYC Department of Finance (DOF) and the NYC Office of Management and Budget (OMB) on the economic impact of an as-of-right tax expenditure program, the Industrial and Commercial Industrial Program (ICIP), recently reformed and supplanted by the Industrial and Commercial Abatement Program (ICAP).

NYCEDC reporting requirements to the New York City Council

Until 2005, NYCEDC reporting to the New York City Council was regulated by Local Law 69 (LL69) enacted by the City Council in 1993 with the objective of providing information that could inform an evaluation of the success of economic

development initiatives administered by NYCEDC. LL69 was amended by the enactment in 2005 of Local Law 48 (LL48), which increased the extent and depth of reporting.

LL48 requires NYCEDC to submit to the New York City Council, the Mayor, the City Comptroller, the Public Advocate, and the borough presidents, an annual report containing descriptive data on a selected group of NYCEDC projects, the amounts of City assistance ("City Costs") provided by NYCEDC to the businesses involved in these projects, and estimates of the tax revenues generated ("City Benefits") by these projects. Data are provided for the life of each project, beginning in the year each project is initiated. For sales and development leases of City-owned land, data are provided only for the year in which the project is initiated and the seven years following. As a comparison, LL69 required reporting for 7 years on all projects. The only instances for which data are not reported separately are projects with City Costs less than \$150,000 (\$250,000 in LL69) and sales and leases of City-owned land estimated to create or retain less than 25 jobs. Data on these projects are reported in aggregated fashion in the LL48 report. LL48 only requires NYCEDC to report on projects with start year on or after FY 2005. NYCEDC voluntarily reports, for their lifetime, on all projects that commenced in FY 1999, with the exception of land sale and development lease projects. Furthermore, NYCEDC makes the LL48 report available online at www.nycedc.com.

The latest LL48 report for FY 2008 includes information on 715 investment projects that, collectively, accounted for over 5 percent of total private employment in New York City, involved almost \$18B of private investment, and totaled an estimated \$29.8B in City Benefits in present value terms. In comparison, the present value of City Costs for these projects was estimated to be \$882M.

LL48 requires that NYCEDC provide a variety of descriptive information for each eligible project, including project name, location, time span over which the project is to receive assistance, type of City assistance received, maximum or estimated total amount of assistance, number of employees at the start of the project, number of jobs that the company must maintain during the reporting year in order to avoid any loss of allowable benefits, actual number of employees in the reporting year, information about the residence, health benefits, and compensation of these employees, and information on assistance provided in the reporting year under certain programs administered by the NYC DOF.

As a comparison, LL69 did not require the reporting of the maximum or estimated total amount of assistance being provided or the reporting on certain categories of City Costs. Furthermore, for employers with more than 250 employees LL48 introduced reporting on the percentage of "exempt" and "non-exempt" employees and the percentage of employees that fall within certain salary ranges.

LL48 requires NYCEDC to report on the type and amount of City assistance provided by NYCEDC to companies for eligible projects. Assistance that gives rise to City Costs includes the issuance of tax-exempt bonds, Mortgage Recording Tax exemption, real property tax savings from Payments In Lieu Of Taxes (PILOT) abatement and stabilization, sales tax exemption, and reduced taxes due to energy assistance. The calculations are based, among other sources, on information regarding sales tax savings as self-reported by their recipients, tax exempt bond savings as supplied by trustees and PILOT savings as supplied by the NYC DOF. These incentives encourage eligible businesses to invest in New York City and locate jobs here.

For each project, two measures of City Costs are provided: the amount for the reporting year and the total amount over the life of the project as a present value discounted to the project start date. The total present value is further subdivided into two amounts: the portion (using actual figures) relating to the years from the project start to the reporting year and the portion (using projected figures) from the year following the reporting year through the end of the project. For each investment project, the LL48 report also includes the value of certain as-of-right tax expenditure programs that are administered by NYC DOF, including the Commercial Expansion Program (CEP) and the Relocation and Employment Assistance Program (REAP).

The LL48 report also has entries to reflect any recapture, cancellation or reduction of benefits made after the project start date and any penalties assessed. Since FY 2003, NYCEDC's Compliance department has recovered approximately \$26M (expressed in 2009 dollars) in unauthorized benefits with nearly \$17M of that amount coming in the form of recapture and \$9M coming from repayment due to unauthorized use. NYCEDC enforcement of projects that terminated in FY 2008 alone lead to the forfeiture of more than \$50M, expressed as a present value, in future City Costs.

City Benefits generated directly by a company include the tax revenues that would be paid by the company if the City Costs were all zero. City Benefits generated elsewhere within the City by a company's business activities are called indirect impacts and include activities of various vendors and suppliers that provide essential goods and services that the company requires. Finally, the tax revenues associated with the household spending of those residents whose employment depends directly or indirectly on a company are called induced impacts. NYCEDC uses an economic model to estimate the portion of City Benefits that cannot be directly measured. Using current employment of the entity as the starting point, this model calculates the economic and fiscal impacts using multipliers or factors for the industry sector of the entity. The calculation of City Benefits generally is based on employment figures as of the end of each fiscal year, as supplied to NYCEDC by the businesses in response to an annual survey administered by NYCEDC's Compliance department.

As suggested by the extensive amount of information provided by the LL48 report, NYCEDC devotes significant resources to its production, which we estimate to be in excess of 2,000 man-hours per year across all departments involved.

However extensive its reporting activities, NYCEDC, through its Compliance department, also monitors NYCIDA investment projects on their required insurance policies, project completion, and PILOT payments as well as by conducting subtenant surveys and collecting administrative fees. Furthermore, the Compliance department conducts due diligence by performing on-site visits, monitoring debt service payments, seeking the opinion of independent accountants, and requiring disclosure statements upon merger, acquisition or sublease.

Finally, I would like to emphasize the commitment of NYCIDA to transparency and accountability. NYCIDA's statutory requirements include: (1) public hearing notice placed 30 days prior to the related hearing, with voluntary early and full provision of cost-benefit analyses as per NYCIDA initiatives, (2) audited financial statements posted on NYCIDA's website, (3) annual budget posted on NYCIDA's website, and (4) annual reports to the State on NYCIDA projects.

Industrial and Commercial Incentive Program

To catalyze private capital investment in economic development, NYCEDC also leverages available as-of-right City, State and federal assistance. The Industrial and Commercial Incentive Program (ICIP) is one as-of-right program administered by the NYC DOF aimed at spurring private investment by providing real property tax exemptions for commercial and industrial real estate development or renovation. As part of its role in promoting economic development and economic growth in the City, NYCEDC was involved in an evaluation of ICIP in collaboration with the NYC DOF and OMB. The objective of the study was to determine the economic impact of ICIP and isolate the areas where the program could be made more efficient by more carefully targeting its expenditures towards investment projects that would not be undertaken but for the receipt of assistance.

The analysis showed that ICIP operated at a significant fiscal loss for the City and identified the main reasons. In particular, it showed that the City gained little new economic activity by subsidizing new or renovated retail facilities in neighborhoods already well-served by retail. It also found that ICIP real property tax exemptions generally offered south of 59th Street in Manhattan were too generous and unnecessary to induce economic activity. Similarly, exemptions accruing far into the future are valued significantly less by developers than what they cost to the City. The study showed that reducing the length and extent of

certain of ICIP exemptions would have provided substantial savings to the City at a small cost in terms of reduction of the amount of economic activity generated by the program. Finally, utilities were initially excluded from ICIP but became eligible after a successful 1994 lawsuit and received exemptions well in excess of 10% of the total in FY 2007. We believed that the achievement of City policy objectives, such as clean energy, was ill served by ICIP.

As a result of the study, ICIP was supplanted in FY 2009 by the Industrial and Commercial Abatement Program (ICAP), which, although conceptually similar, presents a number of substantial innovations including: (1) the exclusion of retail facilities from ICAP in the most successful commercial areas of Manhattan and the reduction of benefits from 25 to 15 years for predominantly retail facilities in other areas of the City, (2) with certain exceptions, the reduction of the length of ICAP benefits for other types of commercial real estate investments south of 59th Street in Manhattan, (3) a less generous protection against inflation in the real property tax base in certain areas of the City, and (4) the exclusion of utilities from the program. Significant steps were also taken to improve the transparency, predictability and administration of ICAP relative to ICIP. It should also be noted that, to support the continued revitalization of low-income neighborhoods, NYCIDA is willing to consider financial support for retail projects associated with a larger City redevelopment strategy.

The rigorous assessment and evaluation performed by NYCEDC NYC DOF and NYC OMB paved the way for the programmatic changes that transformed ICIP from an inefficient drain on the City's budget to a program that creates significant new economic activity at the lowest possible cost, saving City taxpayers hundreds of millions of dollars in the short term.

Conclusion

Based on the analysis to date, we conclude that the LL48 report demonstrates how critical NYCEDC's financial assistance efforts are toward maintaining and expanding New York City's economic base by stimulating investment, job growth and business expansion. We welcome feedback about ways to make information about our activity more open and accessible and believe that a healthy dialogue with the general public, policy organizations, and local elected officials is an indispensable component of our accountability process. We will be glad to answer your questions now.

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John Petro
Policy Analyst for Urban Affairs
Drum Major Institute for Public Policy

My name is John Petro and I am an urban policy analyst at the Drum Major Institute for Public Policy. The Drum Major Institute is a non-profit, non-partisan, public policy think-tank based here in New York City. Part of my job at DMI is to find the best local-level policies from cities across the country—to find policies that have a proven record of success and that have had a positive impact on the residents of that city.

As part of that effort, we have looked at how other cities conduct their economic development subsidy processes and found that New York City could be doing much better at ensuring public tax dollars create real economic benefits and opportunities for city residents. Specifically, New York City should require that recipients of public subsidies create living-wage jobs for New York City residents; we need to focus on the quality of jobs created, not just the quantity.

We know that at least one city, Minneapolis, MN, does exactly that. When entering into an economic development agreement, Minneapolis sets out the number of living wage jobs that must be created by the subsidy recipient, based on the amount of public money they receive. For every \$25,000 of subsidy, at least one living wage job must be created. (In Minneapolis, the living wage is \$13.25 an hour.) If the subsidy recipient fails to meet its obligations, if it does not meet the target for living-wage jobs, it must pay the city \$100,000 in damages for every living wage job that was not created.

New York City does not require the creation of living wage jobs when it enters into economic development agreements with private companies. Because of the actions of the City Council—the passage of Local Law 48—we know that a large percentage of the jobs created do not pay a living wage. A living wage in New York City is roughly \$12 an hour for a single adult with no dependents, and about \$20 an hour for a parent with one child. According to the NYCEDC's *Annual Investment Projects Report* from fiscal year 2008, we know that 27 percent of the jobs at all of the job sites included in the report paid less than \$40,000 dollars a year and 14 percent of the jobs paid less than \$25,000 dollars a year. That is out of the total number of jobs that currently exist. As I understand it, the report does not distinguish between which of those jobs existed already and how many were created as a result of the public subsidy.

Now, why is it important that there be living-wage requirements attached to economic development subsidy deals? At the Kingsbridge Armory in the Bronx, there is currently debate over whether a private developer that is receiving city subsidy should require future retail tenants to pay a living wage. The Armory is being redeveloped into a retail mall. This development is expected to bring 1,800 construction jobs and 2,000 permanent jobs to the site.

While we need jobs, using taxpayer dollars to create poverty-level jobs that offer no real economic opportunity is not the answer. According to the Fiscal Policy Institute, the median wage of a New York City retail worker in a nonprofessional, non-managerial

occupation is only \$10.78. At 40 hours a week, 52 weeks a year, an individual earning this wage will barely gross over \$22,000. And many workers make less than the median wage.

This is not enough to support a family, and it is not a good use of city tax dollars. The developer has received promises of \$90 million in public financing through IDA subsidies, tax credits and repairs to the building. The community has every right to expect that they benefit from the use of public money. But poverty-level wages do not bring true economic opportunity. In fact, when tax dollars are used in this way, the city loses twice. First, when tax dollars are diverted from other uses--money that could be spent on schools, public safety, or open space--and second when the city must spend money to provide services to the family that is only making a poverty wage and cannot support itself.

The Minneapolis city council was able to use its power to create real economic opportunity for its constituents by requiring the creation of living wage jobs. New York City should do the same thing.