

Realizing Economic Incentive Benefits

by Amanda Pinkston and Leslie R. Rubin, Ph.D.

Most companies put economic incentive monitoring on the back burner following receipt of incentive commitments. As a result, the required compliance goes unattended. Actively managing incentives minimizes surprises and enables realization of the maximum achievable benefit. A key point of contact within the company has to take responsibility for calendaring compliance dates, filing proper compliance documents with the appropriate agency, and responding in a timely manner to government inquiries.

What follows are examples of common mistakes made by recipient companies and recommendations as to how best to address the challenge of incentive compliance.

CALENDAR INCENTIVE COMPLIANCE DATES

Compliance dates are specific to a particular economic incentive program, so critical dates need to be calendared. For example, a company must file documents annually to assure receipt of real property tax abatement in the State of Indiana. The documents include resubmission of the project Statement of Benefits, a 322 ERA and a separate Compliance (CF-1) form, all signed and submitted within the first 60 days of the new calendar year. However, personal property tax abatement compliance documents are filed between March 15th and May 1st. Failure to file the correct property tax abatement documents will result in loss of that benefit for that taxable year. So keeping track of dates is important.

COMPLIANCE IS NOT THE RESPONSIBILITY OF GOVERNMENT

Government may mail a project progress survey to a company but will not typically contact that same company to remind key personnel of an impending compliance date. The challenge becomes one of monitoring dates as was outlined above and also providing the right information, especially in cases where no prescribed format exists. As an example, a company must provide the Indiana Department of Commerce (IDOC) detailed employment and payroll data for a given calendar

year within the first 30 days of the new calendar year in order to actually use EDGE tax credits. IDOC does not request submission of the employment and payroll information, so it is incumbent upon the company to remember what to do and when. Compliance processes also tend to evolve over time so flexibility will be an essential trait of the responsible company contact.

PROJECT OBLIGATIONS DO MATTER

Claw-back clauses are a reality of most incentive contracts. Whether they are enforced or not is a separate issue. Claw-back clauses trigger consequences if a company fails to meet negotiated project outcomes and has been deemed responsible for the shortcomings. A portion, all and a potential penalty can be imposed by the governing body depending upon the severity of the noncompliance and statutory guidelines.

The Indiana Department of Commerce Skills Enhancement Fund is a grant program that contractually and statutorily defines when noncompliance triggers a penalty. Failure to meet job retraining or job creation goals will result in forfeiture of the portion of the grant not yet paid to the company. However, relocation of a company's operation to a site other than the location identified in the application even if other goals are reached gives IDOC the option to require full reimbursement of grant funds.

SEND THE RIGHT PAPERS TO THE CORRECT ADDRESS

Many incentive programs stipulate what compliance documents must be filed and the timing. It is important to seek out the latest version of the compliance forms to assure a timely response from government. In many instances, additional attachments must be filed with the actual compliance document so developing a checklist is recommended.

Some programs do not define specific reporting dates leaving the company to follow through on the process. The Indiana Department of Commerce TECH Fund grant program reimburses companies for certification of their information technology professionals. Once professionals are certified, a voucher identifying paid



expenses and documentation of the certification is submitted by the company to IDOC for reimbursement.

TECH Fund voucher submissions can be easily forgotten if a company official in charge of compliance is distracted with other tasks. Furthermore, the data required to complete a voucher must be consolidated from multiple sources. So for the uninitiated the challenges can be an administrative hassle. The message of actively monitoring dates, documents and changes may sound repetitive but is critical to capturing the grant dollars.

The location to which compliance documents must be submitted varies by program. For example, tax abatement compliance documents for Marion County must be delivered to the Indianapolis Department of Metropolitan Development, whereas a company receiving tax abatement benefits in Boone County would be required to submit the same documents to the Boone County Auditor's Office. State tax credit compliance documents are typically submitted to the respective economic development agencies, but you should always verify where the documents need to be delivered before submitting them.

Furthermore, creating a paper trail will enable verification of document delivery and insure against the potential of lost documents by government. This simple rule will minimize a company's frustration and displeasure of working with government programs.

Leslie R. Rubin is president of Meridian Incentive Advisors Inc. (MLAI) and has over a decade of experience, knowledge and successful performances in the economic development field. Leslie has helped corporations across the nation obtain incentives valued in excess of \$80 million for proposed project investments totaling \$311 million over the past four years. In her current capacity as president, Leslie serves as a leader, manager, and highly skilled problem-solver. Amanda Pinkston has been an associate at MLAI for the past two years and was awarded first place in the APICS of Central Indiana Donald W. Fogarty International Student Paper Competition in 2004.

*Meridian Incentive Advisors, Inc
9000 Keystone Crossing, Suite 1050
Indianapolis, IN. 46240
PH: 317-523-5956
FX: 317-875-9999*

BE ALERT FOR CORRESPONDENCE FROM GOVERNING AGENCIES

Government correspondence concerning incentive programs is mailed to a company as dictated by current policy of the oversight agency. The documents typically undergo a quick review by a company official and are then set aside for subsequent response. Eventually, the necessity of the response by some deadline causes personnel of the company to scramble to be in compliance. While not deleterious to the company's bottom line, such last minute hustling is highly inefficient and subject to the introduction of incorrect information.

To ensure that all correspondence from governing agencies is answered within the appropriate compliance time limits, be aware of the types of compliance correspondence that the company should anticipate receiving and when such materials will arrive. Periodically check with the oversight agencies about specific incentive programs and be prepared to gather the required information. Creating a template for the data and providing sufficient lead time to obtain the information will go a long way in reducing stress.

In summary, assume that all incentive programs have compliance requirements with specific filing timelines. Subsequent efforts can then focus on organizing the what, when, and where for a given incentive program. Actively managing your incentive will maximize your financial benefit from these programs.

