Know When to Fold 'Em

Time to Walk Away from NYC's Corporate Retention Game

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GJNY investigates and publicizes the ways in which public resources are allocated in the name of corporate retention. With this knowledge we hold government officials and companies accountable to taxpayers, particularly when economic development agencies give subsidies to large corporations that threaten to leave New York City.

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Executive Summary

This report analyzes contracts that have never been made public before on tax breaks New York City gave to companies that threatened to leave town in the late 1980s and 1990s. Since then, these companies have often failed to create or even retain jobs. Our analysis of the tax-break agreements reveals why: the contracts lack commitments to new job creation, provide weak safeguards against layoffs, and often don't require companies that break their job retention promises to pay the city back. Lack of public disclosure on these deals and their outcomes has prevented taxpayers from making informed judgments about their value.

Economic development subsidies to major New York corporations have often sparked criticism.[1] Until recently, however, very little hard data about them have been available to the public. With a more responsive city administration and our persistent use of the Freedom of Information Law (FOIL), Good Jobs New York (GJNY) has obtained and reviewed actual contracts signed between the city and corporate retention subsidy recipients.

Bank of America
Bear Stearns
Chase Manhattan (now JP Morgan Chase)
Credit Suisse First Boston
Dillon Read
Equitable Assurance Co.
ING Holdings Corp.
Merrill Lynch
NASD
NBC
Paine Webber
Reuters
Travelers (now Citigroup)

In this report we focus on thirteen deals with companies that laid off employees after signing large tax-break agreements. They were chosen based on four criteria:

- Size of the publicly announced subsidy deal
- Reported subsequent layoffs or transfers
- Typical recipient industries (finance, media)
- Availability of documentation

While not a comprehensive picture of all the city's recent economic development activity, and representative of only a portion of the "corporate retention" program as a whole,[2] these deals nonetheless illustrate serious problems with the company-by-company approach that has historically dominated the city's development strategy and continues to influence it today.

Major findings:

- The ten firms for which we were able to obtain extensive compliance (outcome) documents showed a collective net loss of approximately 3,000 jobs; companies contributing to this net loss used approximately $120 million of the $418 million total subsidies authorized for them as of June 2002.

- Agreements contained no binding commitments to job creation (although most companies can earn additional benefits by increasing jobs). Almost all of the agreements have employment "cushions" that allow for some layoffs without penalties.

- Many agreements contain job retention targets lower than the number of jobs companies actually had at the time they signed their deals. (For example, although Merrill Lynch had 9,693 workers, it signed an agreement to keep only 9,000.) This low-balling allows companies to fire or transfer workers without incurring penalties. Companies may later claim "growth" credits for existing employees that weren't included in the lowered retention target.

- Companies that did not live up to their job retention commitments often did not have to pay the city back. In only one case was an entire subsidy package returned.

- Public reporting on the outcomes of these deals – as mandated through the city's disclosure ordinance, Local Law 69 – provides data that are inconsistent with internal IDA reporting documents. The annual Local Law 69 Report contains partial, often misleading information.

Because of their poor track record on job creation and retention, tax-break deals such as those examined here do not offer an effective way to address New York City's most pressing economic challenges, such as high unemployment and over-reliance on the volatile financial sector. These challenges point to the importance of installing taxpayer safeguards – including stronger job creation requirements, effective "clawbacks" or money-back guarantee contracts to recapture subsidies when deals fail, and much greater transparency to ensure that economic development dollars create and retain good jobs. Applied judiciously, taxpayer investments can strengthen the city's economy, help many more employers, and avoid costly "ransom" payments to a small number of well-placed firms.

Policy Options

These findings indicate that a change in strategy is needed to foster real job growth through subsidies. Key options include:

Strengthen Clawbacks

The city's existing "recapture" or money-back guarantee provisions allow subsidized companies to lay off workers without penalties. The city should employ bone fide clawbacks – similar to those used by at least 19 states and dozens of cities[3] – with recapture pegged to accurate, independently verifiable employment numbers and mandated on a prorated basis after a reasonable period of time.

Improve Transparency and Public Participation

Public hearings give the city a chance to engage residents, including entrepreneurial talent, in active dialogue about economic development needs. The key first step toward improving tax break allocations is sunshine: The public must have access to the details of each deal and the opportunity for meaningful input before agreements are finalized.

Afterwards, the agreements, along with monitoring and compliance records, should be public record, and made easily available.

Ensure Corporate Threats to Relocate Are Real

In some instances, corporations have admitted they were not really serious about relocating, or that they demanded tax breaks only because competitors got them. As the world's leading financial and cultural center, New York City should not sell itself short. Threats to move some or all operations out must be investigated thoroughly to ensure that they are credible and imminent.

Promote Good Corporate Citizenship

Corporate scandals abounded in 2002 and 2003. Indeed, about half the deals examined here involve companies that have recently been caught up in governance or accounting scandals. Tax break agreements should provide that if a company violates any local, state or Federal law, its subsidy will be suspended. Companies should also be encouraged – using tax-breaks as a "carrot" – to contribute to the local economy through first-source hiring agreements, job training opportunities, and procurement preferences for local vendors.

Tie Subsidies to Job Quality Standards

The city currently imposes no requirements and keeps no data on the wages and benefits of jobs being subsidized. This puts the Big Apple behind the 43 states, 41 cities and 5 counties that place wage, health care, and/or full-time hour requirements on companies receiving tax breaks.[4] Allowing subsidized firms or their subcontractors to pay poverty wages means hidden taxpayer costs such as Medicaid, food stamps, housing, and the Earned Income Tax Credit.

The Bigger Picture: Move Away From Costly, Company-Specific Deals

Economic development subsidies should be used to support industry "clusters," rather than individual firms. A skilled workforce, good transportation and infrastructure, proximity to suppliers and consumers, good schools and high quality of life are key factors behind business relocation or expansion decisions. Investing in public goods that benefit all employers is far less risky than putting lots of eggs in the baskets of a few aggressive, footloose firms.

Introduction

At a meeting of business and civic leaders in the fall of 2003, Mayor Bloomberg declared that the city had "essentially ended corporate welfare as we know it."[5] He was referring to the practice of giving tax breaks to major corporations in exchange for their commitment to remain in New York City. These types of deals flourished in the 1990s, involving eight or nine-figure subsidies to some of the world's best-known firms: JP Morgan Chase, Merrill Lynch, NBC, and Bear Stearns to name just a few. While previous city officials praised these deals for maintaining a concentration of high profile, revenue-producing companies in New York City, critics considered them give-aways of scarce public resources to powerful private interests.

Despite Mayor Bloomberg's recent disavowals, corporate subsidy packages continue to impact the city's economic development. Public services must forego revenue that is needed to pay for the 15, 20 or even 50 year long deals. Recent subsidies approved for Hearst Corporation ($23.9 million), Pfizer Pharmaceuticals ($47.5 million), [6] and proposed for the Bank of America ($42 million) show that the city has not yet moved away from offering new deals. The costly, attract-the-big-fish approach to economic development persists in the current administration's plans from the rebuilding of Lower Manhattan and the Far West Side.

Deals Behind Closed Doors

The debate surrounding subsidy agreements has been hindered by the lack of information available on what they actually contain. During the late 1980s and the 1990s, the New York City Industrial Development Agency (IDA), a state-created public authority, negotiated dozens of multi-million dollar deals with little or no input from the public. Monthly notices of the legally required public hearings on each agreement were buried in classified ads in the Saturday New York Post. Hearings were rarely attended by the public and never by IDA board members. The first most New Yorkers heard of these deals was in press releases and news accounts published after they had already been approved. After the City Council passed Local Law 69 in 1993, partial details on each agreement would be recorded and published annually in the Local Law 69 Report, filed with the Mayor and the Speaker of the City Council.

What exactly is a corporate retention deal?

Corporate retention deals are incentive packages that reduce a company's tax bill in exchange for a promise to keep a certain number of jobs and/or a corporate headquarters in the city. The New York City Industrial Development Agency (IDA) is empowered by the state to relieve a company of a portion of its sales taxes and some or all of its property and mortgage recording taxes. The IDA can provide access to discounted energy that the city receives from the state. Through the PILOT (payment in lieu of taxes) program, a company can negotiate a reduced amount to pay the city annually instead of its usual tax bill. The IDA may also issue tax-exempt bonds to certain kinds of businesses that allow them to borrow money at lower-than-market interest rates.

In addition to corporate retention deals, the IDA oversees several other types of economic development programs. Descriptions are available on the website of the New York City Economic Development Corporation: www.newyorkbiz.com.

Under this process, the city negotiated approximately $2 billion in retention deals worth over $1 million each between 1988 and 2000.[7]

The current administration has begun to move away from this pattern of secrecy, making notable improvements to the IDA's public hearing process. The city now releases some details of proposed deals prior to public hearings and recently changed the dates of public hearings to allow more time for decision makers to review comments from the public. Public hearing notices are now posted on the IDA's website, www.newyorkbiz.com, as well as on the Good Jobs New York site, www.goodjobsny.org, where they have appeared for over two years.

The War Among the States

Corporate retention in New York City is a classic example of what some scholars refer to as "the war among the states." New York and New Jersey keep trying to outbid each other with attractive offers to get businesses to stay, expand, or move to their jurisdictions. The competition for jobs and prestigious corporate headquarters enables companies to gain tax advantages by threatening to cross the river – in either direction.

While New Jersey played an active role in luring companies with tax breaks,[8] companies that received large subsidy packages from New York City included some dubious flight risks. For example, when NBC received its second subsidy in 1996, the Bronx Borough President's representative to the IDA board, Kevin Nunn, voted against the deal, pointing out that NBC had a 35-year lease on its headquarters and had made millions of dollars in improvements to the facility. "They're not going anywhere," he told the Daily News.[9] Deals such as NBC's set the stage for other firms to demand similar treatment. As Laurence A. Tisch, then-chairman of CBS, told The New York Times after CBS got its second subsidy package in 1999, "We never threatened to leave the city. I just wanted us to be treated like everyone else."[10]

The absence of clear, public guidelines to assess the legitimacy of a company's threat to flee helped give large, prestigious firms disproportionate access to the city's economic development funds. Most of the firms that negotiated tax breaks with the city during the 1990s belong to the finance and media sectors. (Of the 100 deals in GJNY's online database, 75% are with finance or media companies.) Reacting to the demands of these powerful firms may have worsened the city's already problematic overdependence on Wall Street for its tax revenue. Emphasis on sectors that employ a significant commuter population also detracted from the goal of ensuring good jobs for New York City residents.

Subsidies After 9/11

The attacks of September 11th 2001 impacted the city's economic development by worsening the recession, deepening unemployment, and devastating sectors such as garment manufacturing and tourism. Previous corporate retention policy helped shape the state and

city response. Large firms including American Express, Bank of New York and the New York Board of Trade received millions of dollars in Federal reconstruction funds to stabilize Lower Manhattan. Boutique trading firms collected the bulk of the funds designated to reimburse "small" downtown companies for lost revenue.[11] The city and state's use of Liberty Bonds ($8 billion of special tax-exempt financing available for building commercial and residential properties and utilities) has come under fire for boosting office tower development in Midtown Manhattan, luxury apartments in Lower Manhattan, and a proposed private power plant in Astoria, Queens.

> *Our decision to return downtown, which has been our home for more than 150 years, was not predicated on financial incentives . . .Once those financial incentives became available, we chose to participate, as did other companies.* --
> Tony Mitchell, spokesman for American Express[12]

Looking Toward the Future

Mayor Bloomberg has taken a much tougher stance than previous city administrations against companies that demand tax breaks for staying in New York City, saying: "Any company that makes a decision as to where they are going to be based on the tax rate is a company that won't be around very long . . . If you're down to that incremental margin you don't have a business."[13] He refused to give in to demands for increased city contributions to the proposed $1.1 billion subsidy for a new New York Stock Exchange trading floor in August of 2002. He also rejected Bear Stearns' demand for a third round of subsidies later that same year. The Mayor has made several statements emphasizing the importance of a balanced development strategy that focuses on all five boroughs.

While these changes are important, time will tell whether they will translate into a subsidy policy that succeeds in promoting job growth and widely shared benefits. No retention agreements examined for this report were negotiated under Mayor Bloomberg's administration. However, the subsidies to Hearst and Pfizer,[14] the proposed $42 million subsidy to Bank of America for a new midtown tower, and the predominance of subsidized office buildings in the city's proposed plans for the Far West Side indicate a continued focus on securing large corporate tenants rather than on supporting the range and quality of jobs needed to strengthen New York City's economy.

> *We never really talked about leaving Manhattan... We realize it's not the cheapest place to do business, but we're already here... We attract a high-quality workforce in New York City, and we think it's advantageous to be in the country's business and financial capital.*
> -- Greg Vahle, Pfizer vice president of human resources and services[15]

The New York Stock Exchange Subsidy: Gone But Still Expensive

The $1.1 billion proposed subsidy to keep the New York Stock Exchange from moving to New Jersey finally fell apart in August 2002 when Mayor Bloomberg refused to give in to NYSE demands for a larger city contribution, citing the severe budget problems following the 9/11 attacks. If it had been approved, the deal would have been the biggest corporate give-away in New York State history.

On the other hand, taxpayers did not get off entirely free. New York City will be contributing at least $110 million to the failed effort. The money will be used to pay architects, planners, and bond lawyers, as well as uprooted tenants who were tossed out of 45 Wall Street, one of the properties cleared and held vacant while negotiations went on. J.P. Morgan Chase and Rockrose Development Corporation, two property owners that agreed to sell their land for the new trading floor, received at least $21 million in late fees because the deal failed to close as planned in late 2001.

Today, the NYSE remains in its historic home, perhaps too tied up in corporate and governance scandals to threaten to move to New Jersey or Connecticut. And one of the properties cleared for the proposed new trading floor is being converted into a luxury apartment building – with the help of government subsidies.

Methodology

Prior to the release of this report, the only publicly available numbers on subsidy agreements came from news articles and press releases. The data used in this report come from three main sources:

1) Correspondence and documents filed by companies with the IDA in compliance with internal reporting requirements, including project agreements, annual employment reports and certificates of benefits used;
2) Data furnished to GJNY by the IDA in response to requests for clarification of figures reported in news accounts;
3) The City Council mandated report on development expenditures, the Local Law 69 (LL69) Report.

Discrepancies between figures in the internal documents and the LL69 Report highlight one of the transparency problems raised in this report. Wherever possible, we have used numbers taken from internal IDA documents. Cases where internal documents were not available are noted in the charts. Because of possible problems with the accuracy of figures taken from the LL69 report, charts that include recent job numbers and benefit amounts show two totals: one including all thirteen deals and the other including the ten deals for which we have internal IDA reporting documents. Job numbers used here refer to full time jobs *at project locations only*; they do not necessarily refer to all employees a company has in New York City.

Overview of deals examined in this report:

Company	Date	Term	Total Amount Approved	Job retention commitment
Bank of America (terminated 1998)	11/1/1993	16 years	$18.00 million	1,700
Bear Stearns	12/9/1997	50 years	$75.00 million	5,700
Chase Manhattan	11/1/1989	25 years	$237.70 million	4,500
CSFB	12/1/1995	20 years	$58.63 million	3,704 (increased to 4,397 in 1998)
Dillon Read (Terminated 1998)	1/1/1997	20 years	$5.85 million	620
Equitable	5/1/1998	16 years	$10.30 million	1,750
ING	12/1/1998	15 years	$7.40 million	1,820
Merrill Lynch	11/1/1997	15 years	$27.64 million	9,000
NASD	12/1/2000	20 years	$52.00 million	760 (increased to 779 by 2002)
NBC	12/1/1996	14 years	$7.00 million	2,250
Paine Webber	11/1/1997	20 years	$14.47 million	2,781 (increased to 4,318 in 2003)
Reuters	5/1/1998	24 years	$26.00 million	1,800
Travelers	8/1/1995	15 years	$22.10 million	8,970
TOTAL			**$562.09 million**	**46,048**

Analysis

So what was actually happening behind those closed doors during the heyday of corporate retention deals in the 1990s, and what lessons can we learn for the future? While the real costs and benefits of the deals can be difficult to evaluate in dollar amounts, one result is clear: the incentive packages did not consistently promote job growth and often failed to secure even job retention. Three types of problems account for the deals' failure to function as job engines:

- Lack of binding commitments to job growth;
- Weak safeguards against layoffs; and
- Poor transparency.

With over 300,000 New Yorkers unemployed as of January 2004, job creation is critical to the city's future economic health. Understanding the shortcomings of these deals can help avoid their recurrence in future development projects.

I. False Advertising: Corporate retention is not about jobs . . .

Job Growth or Just Good PR?

Most corporate retention deals are accompanied by a lot of fanfare about the jobs they will create. A look at the agreements used by the city reveals that virtually none of them contains a binding commitment to job growth.

The Merrill Lynch agreement offers an especially egregious example. When the deal was announced in 1997, company and city officials declared that the incentive package would result in the creation of 2,000 new jobs. This number does not appear in Merrill's contract with the city – a document that was not made public until well after it was signed. In terms of a hard-and-fast commitment, Merrill Lynch promised to keep 9,000 of the 9,693 jobs it already had in the city. The agreement allows up to 720 of the 9,000 "retained" employees to be laid off without penalties (more on this "cushion" of permitted lay-offs later). As of June 2002, the company reported 7,821 full

. . . Is It About Revenue?

Corporate retention deals may not be the best way to grow new jobs, but perhaps they can be justified as a means of generating city tax revenue? After all, major New York City subsidy recipients include financial firms that employ some of the best-paid people on the planet. Income taxes from bonuses alone make up a disproportionately large share of the city's intake, as becomes clear whenever there is a downturn on Wall Street. And large office towers, unless they have gotten subsidy deals that exempt them, bring in significant amounts of property and corporation taxes.

The amount of revenue secured for the city by corporate retention deals is surprisingly hard to quantify. Companies are not required to disclose their city and state tax contributions, making revenue gains an estimate at best. The value of "gained" revenue also hinges on assumptions about whether the company would have chosen to leave in the absence of the subsidy. Several recipients of 1990s deals later admitted that they were not serious in their threats to move. Revenue from companies that would have stayed anyway cannot be considered "gained" for the city by means of a corporate retention subsidy.

time jobs, a number below its commitment level of 9,000. At that point, the company had collected approximately $20 million in city tax breaks and no penalties had been imposed.

Merrill Lynch was not alone in terms of failure to deliver on promises of job growth. The chart on job results below shows that approximately half (six out of thirteen) of the companies lost jobs instead of retaining them. In fact, Bank of America and Dillon Read lost so many jobs that their deals were terminated by the city. The ten deals for which we have internally reported employment figures collectively lost at least 1,755 jobs by the end of fiscal year 2002. Because agreements frequently low-balled employment figures when committing to retain a certain number of jobs, these ten companies eked out 171 jobs "gained" above their stated retention commitments.

Several reporting problems make the true number of jobs gained or lost difficult to nail down. For example, correspondence between ING and the IDA indicates that ING may have significantly over-reported its 2002 job numbers. Bear Stearns' job numbers seem, on the other hand, to be much too low based on news accounts of employment levels at its corporate headquarters. Adjusted for both these problems, the employment figures change somewhat, becoming even bleaker for the ten deals for which we have compliance documents (over 3,000 jobs lost) and improving slightly for the whole group of thirteen (432 jobs gained).

Benefits already used as of June 2002

Company	Benefits used as of June 2002
Bank of America	$1.72 million
*Bear Stearns	*$21.83 million
Chase Manhattan	$51.11 million
*CSFB	*$35.65 million
Dillon Read	Funds returned
*Equitable	*$8.26 million
ING	$2.86 million
Merrill Lynch	$20.14 million
NASD	$3.99 million
NBC	$11.48 million
Paine Webber	$6.63 million
Reuters	$2.44 million
Travelers	$19.44 million
TOTAL (13)	**$185.49 million**
TOTAL (10)	**$119.81 million**
*Benefit numbers taken from Local Law 69 Report FY 2002	

Regardless of changes caused by reporting problems, the job numbers do not support the confident predictions made by corporate and city officials when the deals were signed.

Based on these numbers, it seems that tax breaks to large, brand-name firms are not the city's best investment bet for job creation or retention, despite the hopeful fanfare accompanying their announcements.

Job Results as of June 2002

Company	Job retention commitment	Jobs at date of deal	Projected new job growth	Jobs as of June 2002	Change in actual jobs	Change from retention commitment
Bank of America (11/1/1993 - terminated 1998)	1,700	2,172	0	344	-1,828	-1,356
***Bear Stearns** (12/9/1997)	5,700	5,700	13,300	*1,435 **(5,935)	-4,265 **(235)	-4,265 **(235)
Chase Manhattan (11/1/1989)	4,500	5,000	1,450	4,145	-855	-355
***Credit Suisse First Boston** (12/1/1995)	3,704 (increased to 4,397 in 1998)	3,704	5,550	*6,800	3,096	2,403
Dillon Read (1/1/19997 - terminated 1998)	620	620	664	436 (1998)	-184	-184
***Equitable** (5/1/1998)	1,750	1,850	440	*2,076	226	326
ING (12/1/1998)	1,820	1,820	1,270	1,906 ***536	86 ***(-1,284)	86 ***(-1,284)
Merrill Lynch (11/1/1997)	9,000	9,693	2,000	7,821	-1,872	-1,179
NASD (12/1/2000)	760 (increased to 779 by August 2002)	937	0	1,007	70	247
NBC (12/1/1996)	2,250	2,250 (1,600 direct employees plus 650 contractors)	0	3,527 (2,127 direct employees plus 1,400 "temporary freelancers")	1,277	1,277
Paine Webber (11/1/1997)	2,781 (increased to 4,318 in 2003)	3,008	474	1,553	-1,455	-1,228
Reuters (5/1/1998)	1,800	1,806	2,348	2,096	290	296
Travelers (8/1/1995)	8,970	8,821	2,100	11,537	2,716	2,567
TOTAL (13)	**46,048**	**47,381**	**29,596**	**44,683 ***(47,813)**	**-2,698 **(432)**	**-1,365 **(1,765)**
TOTAL (10)	**34,201**	**36,127**	**10,306**	**34,372 ***(33,002)**	**-1,755 ***(-3,125)**	**171 ***(-1,199)**

*Based on job numbers taken from Local Law 69 report for FY 2002

** Adjusted based on news accounts (The 1,435 jobs in the LL69 report account for only one of two locations.)

***Adjusted based on correspondence between company and IDA

II. Weak Safeguards

The best insurance the city can offer taxpayers when it gives out subsidies is a strong clawback or "money back guarantee" requirement: If a company fails to create or retain jobs as promised, it should be required to repay the benefits it has used.

When some of these deals were signed, prospects for the firms' job creation and retention may have appeared brighter than they turned out to be. The task for public officials is to ensure that safeguards are put in place so that even in an economic downturn, taxpayer dollars do not end up subsidizing companies to lay people off. Unfortunately, the safeguards in the deals examined by GJNY protect only a portion of subsidized companies' workforce.

The agreements do include penalties if companies fire or relocate more than a certain percentage of employees. The penalties vary from temporary suspension of benefits, to reduction of future benefits, to "recapture" fines that can run as high as double the original amount given. The trouble is that penalties don't kick in right away, often do not require a payback of the subsidy even for large-scale job reductions, and may be enforced at the discretion of the IDA, rather than mandated.

Generally, just plain layoffs, or "non-relocation reductions," do not lead to subsidy repayments or even fines. Instead, after a protected, penalty-free cushion (ranging from three to ten percent of employees), the city may choose to reduce a firm's future benefits, while leaving past benefits alone. At least 20% of employees can be fired before any of the deals must be terminated. Penalties for transfers out of the city are much more strict. However, between 8% and 15% of the employees can still be relocated before the deal is terminated.

Chase Manhattan (now JP Morgan Chase) has the distinction of receiving the largest corporate retention deal in NYC history (approximately $237 million) and has since laid off a record number of employees. The contract requires the company to retain 4,500 jobs at MetroTech in downtown Brooklyn. As of June 2002, JP Morgan Chase reported less than that – approximately 4,145 full time jobs. The contract imposes penalties only if employment levels fall below an average of 4,500 during a three-year period. Since Chase's employment levels over the last three years averaged just above 4,500, no penalties have been required.

In seven of the cases we reviewed, the companies had more employees when they signed their deals than they committed to keeping. The employees that never made it into the "retention" base could be laid off without violating the subsidy agreement. At the same time, the companies could account for the excluded employees as if they were new in the following year, collecting "growth" benefits for jobs they had not created.

Travelers, now a subsidiary of Citigroup, signed a subsidy agreement in 1995 to retain 8,970 jobs. At the time the deal closed, Travelers had 9,436 employees. The difference between the real job numbers and the "retained" jobs meant that 466 Travelers employees could be fired or relocated without affecting the agreement.

The cushions built into subsidy agreements and the employees excluded from them help explain why some

companies made headlines for getting big tax breaks and soon showed up in the news again for cutting jobs.

Even when companies lost or transferred enough jobs to trigger penalties, the terms of some agreements left enforcement up to the discretion of the city. As a result, sometimes even drastic reductions in employment did not lead to fines or termination of agreement.

- The ING Holdings Corp.'s agreement includes a provision that if employment drops by more than 20%, all benefits can be terminated. However, when a drop of over 65% occurred in 2001, the city apparently chose instead to suspend future benefits for one year and then to assess the possibility of reinstating them. In April 2001, ING sold a portion of its business to ABNAmro Securities, Inc., leaving it with 647 jobs, rather than the 1,820 it had agreed to retain. As of February 2003, the company had only 536 employees. The company suggested in a letter to the IDA that if the number of employees it had transferred to ABNAmro were included in its total, it would be closer to meeting its requirements. This suggestion may account for the strangely high job level, 1,906, claimed on its June 2002 employee report. GJNY obtained no documentation on further action taken by the city.

- Paine Webber (now UBS Americas, Inc.) promised to keep 2,781 of the 3,008 jobs it had in 1997. As of June 2002, it had collected over $6 million in sales tax benefits alone and was reporting only 1,553 full time employees. Although this represents a reduction of approximately 44%, the city does not seem to have pursued its option to reduce future benefits or terminate the agreement. In fact, an amended agreement dated February 2003 loosened the penalty thresholds for layoffs and, mysteriously, raised the retention commitment to 4,318 employees. As this report goes to print, Paine Webber is seeking IDA approval to use its subsidy at a new location.

Two companies fired or transferred so many employees that the city did terminate their agreements. Only one company, Dillon Read, was required to return its subsidy.

- Dillon Read received a $5.8 million benefits package in 1997 to retain 620 jobs. Instead, its agreement was terminated one year later, after it merged with the Swiss Bank Corporation, fired approximately 200 employees, and moved its headquarters to Connecticut. The city asserted that under its agreement, Dillon should pay back twice the amount it had received. Documents obtained by GJNY show that the company paid back what it had used ($219,363.96), but there is no indication that the city collected the penalty.

- The Bank of America offers an especially telling example of a company that shed jobs without having to pay any penalty fees. Following the first attack on the World Trade Center in 1993, the Bank of America received an incentive package worth at least $18 million to move to Tower One and retain 1,700 employees. The Bank reported only 1,597 employees in 1995. In 1997, the Bank decided to reduce its staff at the project

location to approximately 800, following a merger with Security Pacific National Bank. Under the Bank's agreement with the city, such a major reduction in job numbers required that the deal be terminated, with all future benefits cancelled. The city terminated its agreement with the Bank of America in March 1998. No penalties in the form of recapture of benefits were required by the terms of the agreement.

As this report goes to print, the Bank of America has applied for up to $42 million in city and state tax breaks for its current offices as well as a proposed new office tower at One Bryant Park to be financed with special 9/11 resources called Liberty Bonds. The Bank claims the agreement will retain 2,995 jobs and projects the creation of 2,896 new jobs over the 25-year term of the deal. The public has not been told what, if any, penalties will be imposed if the Bank once again violates its job commitments.[16]

III. Lack of Transparency

Under previous city administrations, corporate incentive packages could be billed to the public as job generators even if they didn't work that way in part because the process surrounding their negotiation and approval took place almost entirely behind closed doors. Beyond press releases, no official information about these deals was provided to the public. And monitoring the results of the agreements could be as obscure a process as tracking their negotiation.

New York City currently publishes two reports regarding economic development subsidies: the Annual Report on Tax Expenditures and the Local Law 69 Report (LL69). Both are inadequate for assessing the impact of corporate retention agreements in terms of public cost and jobs.

While the Annual Report on Tax Expenditures includes information on aggregate city costs for economic development – for example, the cost of all IDA programs combined, or the cost of all the city's energy discounts – there is nothing available on discretionary corporate retention packages such as those examined here. The Tax Expenditure Report does not break IDA costs down by program, let alone by individual deal.

The LL69 report does contain data specific to individual deals. Unfortunately, the report is an enormous tome of incomplete, often bewildering and contradictory information. As the New York City Independent Budget Office put it in a June 2001 report: "The Local Law 69 report. . .does not provide the information necessary to fully evaluate specific agreements or the [subsidy] policy in general."[17]

Reporting problems include:

- The report only covers an eight-year window. Most deals last for at least fifteen years, so the report only captures about half of what goes on with them in terms of jobs and benefits.
- Program types are not listed on the forms. Various types of subsidies are lumped together under the heading "IDA." This makes a separate assessment of corporate retention deals (as opposed to as-of-right subsidies such as the those provided through the Industrial and Commercial Incentive Program, for example) extremely difficult.

> Prudential Securities, among others, refuses to allow the city's development agency to publish its job numbers in the Local Law 69 report. Prudential recently announced it would transfer employees to the Virginia home of its new parent company, Wachovia. Because of reporting gaps, the public has no information on how these transfers will affect Prudential's commitment to retain 5,000 jobs in New York City.

- The LL69 report fails to provide information on compliance with the terms of agreements. There is currently no way to tell when or even if a deal has been terminated. The two companies – Bank of America and Dillon Read – that had their agreements cancelled due to job losses show no sign of it on their reporting forms.
- There are frequent, sometimes large discrepancies between the data available on internal reporting documents and the LL69 report forms. The chart below shows the difference between the two sources for benefits used and for jobs reported as of June 2002. The ten deals listed here have an average discrepancy of almost $4 million and over 400 jobs.

Differences between internal IDA documents and the Local Law 69 Report

Company	IDA documents Benefits used as of June 2002	LL69 Benefits used as of June 2002	Difference in reports on benefits (gross)	IDA documents Jobs as of June 2002	LL69 Jobs as of June 2002	Difference in reports on job #s (gross)
Bank of America	$1.72 million	$0	$1,72 million	344	346	2
Chase Manhattan	$51.11 million	$44.53 million	$6.58 million	4,145	4,205	60
Dillon Read	$219,363.96	$108,000.00	$111,363.96	436 (1998)	620	184
ING	$2.86 million	$2.77 million	$.09 million	1,906	1,915	9
Merrill Lynch	$20.08 million	$14.92 million	$5.16 million	7,821	7,867	46
NASD	$3.99 million	$8.76 million	$4.77 million	1,007	1,012	5
NBC	$11.48 million	$10.88 million	$.60 million	3,527	2,827	700
Paine Webber	$6.63 million	$6.36 million	$.27 million	1,553	1,602	49
Reuters	$2.44 million	$1.96 million	$.48 million	2,096	2,568	472
Travelers	$19.44 million	$0	$19.44 million	11,537	8,970	2,567
TOTAL			**$39.22 million**			**4,094**

Problems with the city's reporting on economic development mean that the public has no way to know the costs of corporate retention deals and their success in keeping or creating jobs without resorting to FOIL requests and analysis of dense legal documents.

Conclusion

Lack of commitment to job growth, weak enforcement, and poor transparency and reporting practices by the city have all contributed to the failure of corporate incentive deals to live up to their promises to stimulate employment. If jobs are a priority for the city's economic health, and if incentive packages are not achieving job growth, the use of incentives needs to be re-evaluated.

Ultimately, the city must move away from company-specific incentive deals. The Bloomberg Administration has already stated its commitment to diversify development in all five boroughs. The city's plans for broad-based development face a crucial, high profile test in revitalizing the area surrounding the World Trade Center Site. The administration will also be challenged to meet its stated goals in the plans for Manhattan's Far West Side, in Downtown Brooklyn, on the waterfronts, and in addressing the needs of manufacturers and small businesses throughout the city. In this and future administrations, the city should complete its shift away from costly individual deals to a development policy centered on promoting good jobs, supporting diversified sectors, strengthening infrastructure and enhancing workforce development.

However, to the extent that company-specific incentives are used, New York City can and should include the basic ingredients of subsidy accountability – job quality standards, community benefits, transparency and clawbacks – in its development projects. New York can look to models all over the country, as cities and states increasingly take the high economic road and re-calibrate their subsidy programs to ensure that companies return more to the local economy.

Job Quality Standards

Forty-three states attach wage or benefit standards to subsidies. The number of cities that attach strings to municipal subsidies has increased from 25 to 41 in the last three years. Many large cities (including Los Angeles, California, Detroit Michigan, and Hartford, Connecticut) tie subsidies to wages that would bring a family over the poverty line or comply with a local living wage ordinance or self-sufficiency standard.[18]

Community Benefits Agreements

A Community Benefits Agreements (CBA) is a legally binding contract between a private developer and a coalition of community groups, under which the developer agrees to provide certain benefits and the coalition community agrees to support the project. Local government can make the CBA part of its agreement with the developer, to facilitate enforcement. One of the most successful and well known CBAs is the Staples Project negotiated in Los Angeles in May 2001, which required the developer of the Los Angeles Sports and Entertainment District to provide approximately $1 million in improvements to local park and recreation facilities; a living wage for workers; a first-source hiring program targeted to low-income residents and those displaced by the project; funds for affordable housing; and standards for responsible contracting.[19]

Responsible targeting

A few initial steps toward more responsible use of subsidies have been taken by New York City's corporate retention rival, New Jersey. While still a long way from what New Jersey-based advocates consider truly accountable development, the Garden State recently pulled ahead of New York by instituting several reforms to its Business Employment Incentives Program (BEIP). Only employees receiving health insurance coverage can be counted to determine whether a company has met its job creation requirements. Companies located in "smart growth" areas designated as suitable for development are eligible to receive larger subsidy benefits. Penalties are mandated for companies that do not submit required reporting forms.[20] Jersey City recently responded to advocates' demands that commercial subsidy recipients pay into a trust fund that supports affordable housing.[21]

Proposed Policy Solutions

New York City's economic development policy should give taxpayers the best bang for their buck. We propose the following improvements to the current system:

- **Strengthen monitoring and clawbacks (money-back guarantees) in all subsidy agreements.**

The city's policy of subsidizing companies that lay off workers is costly and counterproductive. City officials must ensure that mandatory clawback provisions require companies that fail to live up to their job creation and retention commitments to return any subsidy received and pay any appropriate penalties.

- **Encourage corporate responsibility.**

Corporate scandals were abundant in 2002 and 2003. About half the deals examined here involve companies that were recently caught up in governance or accounting scandals. Development agreements should include a provision that if a subsidy recipient violates any Federal, state, or local laws, its subsidy will be suspended.

- **Ensure that a company's threat to flee New York City is bona fide**.

A threat to move some or all of a company's operations out of the city must be investigated thoroughly so that officials can make an informed decision whether or not the threat is real. Criteria used by the city to determine a company's flight risk and the results of any investigation should be made public.

- **Encourage public participation and transparency.**

One of the best ways to ensure that a company is worth subsidizing is to give taxpayers access to information and an opportunity for meaningful input before a deal is signed. The public should be able to access information about economic development subsidies on the internet rather than having to file a Freedom of Information Law request.

- **Generate program-specific records for assessing subsidy deals.**

The Annual Tax Expenditure Report (and ideally also the Mayor's Management Report) should include a breakdown of IDA expenditures by program, allowing for an assessment of corporate retention deals. The city's disclosure law, Local Law 69, should also be reformed to ensure better understanding of individual companies' progress in creating and retaining jobs.

- **Tie subsidies to job quality standards.**

Companies that get subsidies should provide full time jobs with family-sustaining wages and adequate benefits *for both direct and subcontracted employees*. Anything less means a double whammy on the city's already stretched social services such as healthcare and housing. The city should begin to keep data on the wages, benefits and types of jobs being subsidized, so that the public is able to determine their quality.

- **Encourage projects that benefit the regional economy.**

First-source hiring preferences should be required to help unemployed and underemployed area residents. Large development projects should include apprenticeships and other training opportunities, and encourage use of local vendors and materials. It is also important for city officials to understand the changing needs of companies in order to make the city friendly to an entire industry rather than to individual firms.

BANK OF AMERICA

Jobs retained	1,700 (will increase as job levels rise)
Jobs at time of deal	2,172
Jobs to be created	0
Jobs as of June 2002	344

Benefits used as of 2002	$1.720 million

Deal closed: 11/1/93

DEAL TERMINATED: 3/26/98

Amount Authorized: At least $18 million

Term of deal: 16 years

Location: World Trade Center, Tower I

Commitments from Bank of America:

- Lease a certain amount of space in WTC tower 1
- Retain a base of 1,700 jobs in NYC

Inducements from the city:

- Up to $12,000,000 in sales tax exemptions to be given by means of a bond issue
- $200,000,000 in double tax-exempt bonds (This provides additional savings to Bank of America in the form of lower interest rates.)
- A maximum of $6,000,000 in "WTC Lease Rental Credits"
- Savings (amount unspecified in project agreement) through rental reductions and merger asset reductions

Possible penalties

For layoffs

Between 0 – 10% of the base: NOTHING

Between 10 – 35% of the base: recapture penalties assessed

Over 35%: Bank must repay loan, future benefits canceled, and lease agreement terminated.

For transfers

Between 0 – 10% of base: future benefits reduced proportionally

Between 10 – 20% of base: future benefits reduced and Bank must repay benefits received so far at appropriate recapture percentage.

Over 20%: Future benefits cancelled and past benefits paid back at appropriate recapture percentage. Loan must be repaid and project terminated.

If the Bank of America transferred employees from its midtown Manhattan offices to the WTC office, so that fewer than 600 employees remained in midtown, it would give up part of the rental reduction for the WTC office.

Notes:

On May 10, 1996, the IDA sent a notice to the Bank of America suspending its benefits due to inappropriately claimed sales tax exemptions. The Bank paid the exemption amount back to the NYS Dept. of Taxation and Finance, and was allowed to continue receiving benefits as of October 21, 1996.

For the year ending June 30, 1995, the Bank of America reported 1,597 employees at WTC.

On July 25, 1997, the Bank of America notified the IDA that it had decided to sell off its trust operations and reduce its WTC office staff to approximately 800 employees. The decision followed a merger with Security Pacific National Bank that brought the trust operations of both banks to the WTC office.

On March 26, 1998, the IDA terminated its agreement with Bank of America because of a "substantial decrease in the client's employment in the city." The Bank of America began the process of redeeming all its outstanding bonds on this date.

Because of the sudden drop-off in employment at the WTC site, the provisions for a non-relocation reduction of more than 65% applied. The Bank of America was required to pay back its loan and all benefits were terminated. No recapture payments were required.

The Local Law 69 report makes no mention of the fact that this deal was terminated in 1998. In fact, a note on the report form for Bank of America in FY 2002 indicates that the project was impacted by the September 11th attacks and is therefore under review. Furthermore, the amount of "cumulative benefits" included in the report is zero for all years, despite statements from the company filed with IDA detailing the company's use of benefits.

BEAR STEARNS

Jobs retained	5,700
Jobs at time of deal	5,700
Jobs to be created	1,200 in 7 years; 13,300 over life of deal
Jobs as of June 2002	1,435 according to the Local Law 69 report (LL69) This figure refers only to employees at MetroTech. The LL69 report lists zero employees for 383 Madison Avenue. News accounts indicate that approximately 4,500 BS employees were moved to 383 Madison Ave. in March 2002. This would bring the total employee count to roughly 5,935.

Benefits used as of 2002	$21.80 million (LL69)

Deal closed: 12/9/1997 **Amount Authorized:** $75 million

Term: 50 years

Location(s): 383 Madison Ave. (HQ); One MetroTech Center, Brooklyn; 230, 245, & 277 Park Ave.; 575 Lexington Ave; Two Rector Street, Manhattan

Commitments from Bear Stearns:

- Construction of a new world headquarters at 383 Madison Avenue and improvements at other locations
- Retention of 5,700 jobs in NYC

Inducements from the city:

- $45 million in sales tax exemptions for improvements at 383 Madison and six existing facilities and/or purchase/lease of machinery/equipment to be located at these locations
- $30 million in sales tax exemptions for same purposes available as new jobs are created
- Double tax exempt bond financing to allow machinery/equipment and other ongoing expenses to be exempt from sales tax

Possible Penalties:

The 50-year deal is subject to a recapture provision if Bear Stearns falls below 5,700 employees.

Notes:

This deal is Bear Stearns' second from the city. The first offered $30.7 million in 1991 to retain 1,435 jobs at the MetroTech Center in Brooklyn. (Further details available at www.goodjobsny.org)

Bear Stearns laid off over 400 people in 2001, without falling below the required base of 5,700 employees.

In the fall of 2002, Bear Stearns requested additional city subsidies to keep employees at MetroTech Center in Downtown Brooklyn when its lease expired in 2005. The company reportedly threatened to move these employees to New Jersey. (Although both the 1991 and the 1997 subsidy deals specifically included MetroTech employees, the first deal will terminate in 2006.) Mayor Bloomberg's administration did not provide any additional benefits. However, the city did allow Bear Stearns to convert unused sales tax exemptions from its Manhattan locations to real estate tax breaks in Brooklyn.

The LL69 report lists current employees at MetroTech as 1,435 and at 383 Madison as zero. This puts the total well below the required threshold of 5,700. News accounts of Bear Stearns' employment in New York City put the figure at approximately 5,935.

CHASE MANHATTAN

Jobs retained	4,500
Jobs at time of deal	Approximately 5,000
Jobs to be created	1,450
Jobs as of June 2002	4,145 full time (2,949 direct employees and 1,196 contractors) According to consultants hired to examine the headcount system at MetroTech, the 2002 employee report may have understated the number of jobs. Consultants put the job level at 4,831, including full and part-time employees.

Benefits used as of 2002	$51.11 million in total sales tax exemptions. (Of this amount, only $15.65 million counts towards the "post completion" maximum cap.)

Deal closed: 11/1/1989 **Amount Authorized:** Up to $237.7 million

Term: 25 years **Location:** MetroTech Center, Brooklyn

Commitments from Chase Manhattan:

- Construction, development, and staffing of MetroTech Center
- Retention of an average of 4,500 employees for ten years

Inducements from the city:

- $51,800,000 in sales tax exemptions following construction (unlimited use of sales tax exemptions prior to completion)
- $35 million worth of discounted electricity [news sources only]
- $108 million in property tax breaks [news sources only]
- $16.9 million in relocation tax credits [news sources only]
- $26 million in Metrotech Development Improvements [news source only]

Possible Penalties

Recapture of sales tax benefits can occur if employment level falls below an average of 4,500 during a three-year period. The recapture amount is determined by a formula that includes a phase-out percentage beginning at 80% in the sixth year of the deal and progressing to 0% in the tenth year. *Although the deal is 25 years long, in the last fifteen years of the deal, no recapture payment is possible.*

Notes:

In the years following the deal, Chase announced a series of layoffs and relocations that have moved thousands of jobs out of New York City. Starting with 5,720 job cuts in 1995 when Chase merged with Chemical Bank, the company then slashed 2,200 jobs in 1998 as part of a massive restructuring effort and in October 1999 Chase announced 3,500 positions (10% of its workforce in the New York metropolitan area) would be relocated to other states, including many jobs that had been located at MetroTech Center.

In June 2000, 12 years after signing its 25-year deal, which the city said would prevent the firm from moving jobs to New Jersey, Chase accepted an estimated $100 million in subsidies to move thousands of employees from lower Manhattan to a new complex – in Jersey City.

In September 2000, Chase acquired J.P. Morgan, the investment and asset management firm. The new company, called J.P. Morgan Chase and Company, announced in early 2001 that 5,000 jobs worldwide would be eliminated.

JP Morgan Chase collected several million dollars from New York City as part of the failure of the city to complete a property purchase related to the proposed New York Stock Exchange subsidy in 2001 and 2002. The company also is a major underwriter of bonds for New York City itself and various NYC agencies.

In January 2004, JP Morgan Chase proposed to acquire Bank One to become the second largest bank (after Citigroup) in the nation. The merger is expected to result in up to 10,000 layoffs, many in the New York area, since Bank One's retail operations center in Chicago.

CREDIT SUISSE FIRST BOSTON

Jobs retained	3,704 (increased to 4,397 in 1998)
Jobs at time of deal	3,704
Jobs to be created	5,500
Jobs as of June 2002	6,800 (LL69)

Benefits used as of 2002	$35.652 million (LL69)

Deal closed: 12/1/1995 **Amount Authorized:** At least $58.632 million

Term: 20 years

Location: 11 Madison Ave.; 5 WTC

Commitments from CSFB:

- Construction and improvements at project locations, involving expenditure of at least $200,000,000 to prepare facilities for occupancy
- Maintenance of headquarters and investment banking operations (for ten years) in NYC
- Retention of at least 3,704 (1995) and then 4,397 (1998) jobs in NYC

Inducements from the city:

- $1,200,000,000 in double tax-exempt bonds to finance . . .
- $27,300,000 in sales tax benefits for job retention
- $17,700,000 in possible sales tax benefits for job growth (Up to $4 million in growth credits can be transferred into PILOT or Payment In Lieu Of Taxes savings)
- $5,500,000 in energy credits
- At least $8,132,000 in PILOT savings (LL69)

Possible Penalties

For layoffs	*For transfers*
Between 0 – 8% of base: NOTHING; Between 8 – 40%: proportional reduction of remaining sales tax benefits and real property tax savings; Between 25 – 40%: all benefits suspended until termination date OR until # of employees rises to 75% of base; Over 40%: cancellation of benefits, bond loan must be paid back, termination of agreement.	Between 0 – 2.5% of base: NOTHING; Between 2.5 – 12.5%: proportional reduction in remaining sales tax benefits and PILOT (payment in lieu of taxes) savings plus a recapture penalty; Over 12.5%: benefits cancelled, recapture payment assessed, possible termination of agreement; If the HQ leaves the city, sales tax and PILOT benefits will be forfeited.

Notes:

In February 1995, just one month after accepting its subsidy package, investment bank CSFB announced 135 layoffs in New York City. In July 2000, following its acquisition of NYC subsidy recipient Donaldson, Lufkin and Jenrette, 2,000 jobs were cut. (DLJ was formerly the subsidiary of NYC subsidy recipient Equitable Companies.)

Soon after, the firm, a leader in underwriting shares of technology companies had cut another 500 employees in response to the precipitous falloff in fundraising by new media and telecom companies.

CSFB moved into One Madison Avenue, a building that owner and NYC subsidy recipient MetLife vacated in order to lease it out in 2001.

A provision in the agreement prevents employees gained through a merger from counting towards CSFB's total.

DILLON READ

Jobs retained	620
Jobs at time of deal	620
Jobs to be created	664
Jobs as of June 2002	436 as of 1/15/1998

Benefits used as of 2002	$219,363.96 (returned)

Deal closed: 1/1/1997 **DEAL TERMINATED:** October 5, 1998

Amount Authorized: $5.845 million **Term:** 20 years

Location: 535 Madison Ave.; 120 Wall Street; 30-20 Thomson Ave, Long Island City, Queens

Commitments from Dillon Read:

- Maintain its headquarters in NYC
- Retain 620 jobs in NYC

Inducements from the city:

- $58,500,000 in bonds to help Dillon Read purchase equipment for and make improvements to 535 Madison Ave. and other approved locations
- A total benefits package of $5,845,000, including sales tax exemptions, energy savings, and Real Estate Tax Credits for growth taken out of PILOT payments

Possible penalties

- If over 12.5% of employees are moved out of the city, then the IDA may recapture all the benefits received by Dillon Read plus a multiplier factor, and then terminate the agreement.
- If the headquarters moves out of the city, Dillon Read will owe the city a recapture penalty.

Notes:

In 1997, shortly after this subsidy deal was signed, Dillon Read merged with Swiss Bank Corporation, resulting in an unknown number of layoffs of Dillon Read employees. Although new entity claimed that it could not specifically track the number of lost Dillon

jobs, it admitted to being below the required threshold. At that point the company voluntarily suspended its use of benefits.

Additionally, as a result of the merger, Dillon Read's headquarters left the city.

Investment bank Dillon Read & Co. is now Warburg Dillon Read, part of UBS Warburg, the investment banking arm of UBS, a leading Swiss bank.

The city determined that Dillon Read was in violation of its agreement for falling below its employment thresholds and for moving its headquarters. In October 1998, the IDA sought to collect back the $219,363.96 it had provided to Dillon Read along with a 200% penalty fee for a total of $438,727.92. The company argued that it did not owe a penalty fee since the job reductions were a result of layoffs rather than transfers out of the city. On 3/17/99, Dillon Read paid the city $219,363.96. It is unclear from documents GJNY was able to obtain whether the city was successful in assessing a penalty fee from the company.

EQUITABLE ASSURANCE COMPANY

Jobs retained	1,750 (This level can be increased by however many employees from the annuity department the company elects to retain in the city to a maximum of 198. Additional sales tax benefits can be received for these employees.)
Jobs at time of deal	1,850 regular and 252 Annuity Dept. Employees
Jobs to be created	440 plus 229 "recruited" (according to IDA information provided to GJNY)
Jobs as of June 2002	2,076 (LL69)

Benefits used as of 2002	$8.265 million (LL69)

Deal closed: 5/1/98 **Amount Authorized** $10.3 million

Term: 16 years

Location: 1290 6th Ave; 787 7th Ave; 135 W 50th St; 2 Penn Plaza; 1755 Broadway; 21 Penn Plaza; 30 Rockefeller Center

Commitments from Equitable:

- Consolidate operations from six Manhattan locations
- Retain a base of 1,750 employees in the city
- Maintain its headquarters in NYC

Inducements from the city:

- $7,800,000 in sales tax retention benefits
- Up to $1,500,000 in sales tax growth credits
- $1 million additional sales tax benefits for Annuities Department Employees added if the department is included in the retention deal (it was not)

Possible Penalties

For layoffs	*For transfers*
Between 0 – 8% of base: NOTHING; Between 8 – 20%: proportional reduction of remaining benefits; Over 20%: IDA may choose to terminate agreement at its discretion. No penalties are mandated.	Between 0 – 2.5% of base: NOTHING; Between 2.5 – 10%: recapture penalty required; Over 10%: benefits cancelled, recapture payment assessed, possible termination of agreement.

Notes:

Following the deal, Equitable committed to consolidating its operations from six Manhattan locations rather than moving upstate. The subsidy came at a time when the insurance industry was in decline -- Equitable once had 8,000 employees in the area but the subsidy agreement only required the company to retain its then-current 1,750 workers in the city.

Equitable (now called AXA Financial and 60% owned by the French insurance giant AXA) sold its investment banking firm Donaldson, Lufkin & Jenrette, which received a $29.5 million package in 1994, to another subsidy recipient, Credit Suisse First Boston in July 2000.

The employee base specifically excludes temps, part-timers, and merger additions.

ING FINANCIAL HOLDINGS CORP.

Jobs retained	1,820
Jobs at time of deal	1,820
Jobs to be created	1,270
Jobs as of June 2002	1,906 (Annual Employee Report for FY 01 claims 647 employees. ING letter to IDA in February 2003 claimed only 536 jobs remained following sale of a portion of business.)

Benefits used as of 2002	$2.86 million

Deal closed: 12/1/98 **Amount Authorized:** $7.4 million

Term: 15 years **Location(s):** 49 & 55 E 52nd St.; 135 E 57th St; 230 Park Ave.

Commitments from ING:

- Maintain 1,820 jobs in NYC
- Make tenant improvements at project locations

Inducements from the city:

- $2.4 million in sales tax exemptions
- $3.4 million in possible growth credits through sales tax exemptions
- $1.6 million in energy cost savings

Possible Penalties:

For layoffs	*For transfers*
Between 0 – 8% of base: NOTHING; Between 8 – 20%: reduced benefits; Over 20%: IDA may choose to terminate agreement at its discretion.	Between 0 – 2.5% of base: NOTHING; Between 2.5 – 8.5%: reduction in future benefits, recapture penalty assessed; Over 8.5%: recapture payment, termination of agreement.

Notes:

The ING subsidy was hailed as the first corporate retention deal based solely on job growth. The company was only supposed to be able to draw down benefits if it added jobs. However, that is not what appears to have happened. In fact, by the time the deal was signed, ING had already used a portion of its subsidy ($2.54 million) in "pre-bond issuance sales tax exemptions."

Although there was some growth between 1998 and 2000, as of July 2001, the company was reporting only 647 employees. This drop-off resulted from ING Financial Corp.'s sale to ABNAmro Securities, Inc. of "a significant portion of its U.S. business." The sale included property at which the improvements had been made using the sales tax breaks financed with an IDA bond issue. All further benefits from the deal were suspended for one year due to the decline in jobs as of July 2002.

By the following year, job numbers reported in the Annual Employment Report were up again to 1,906, possibly through the inclusion of the ABNAmro employees in ING's total, an idea put forward in a letter from ING to the IDA in February 2003. This letter reports that the company "currently" had 536 jobs, well under the required level. It is unclear how the reduced job numbers reported in this letter can be reconciled with the 1,906 reported on the FY 2002 Annual Employment Report.

ING also received an Empire State Development Corporation training grant of $100,000 in 1997.

MERRILL LYNCH

Jobs retained	9,000
Jobs at time of deal	9,693
Jobs to be created	2,000
Jobs as of June 2002	7,821

Benefits used as of 2002	$20.14 million

Deal closed: 11/1/97 **Amount Authorized:** $27.64 million

Term: 15 years

Location: 222 Broadway; World Financial Center North, 250 Vesey St., and 15 other locations in Manhattan, Staten Island, Brooklyn, & Queens

Commitments from Merrill Lynch:

- Retain 9,000 jobs in NYC. (However, this base level can be lowered under some circumstances following layoffs. The company will be penalized for the reduction in the year that it occurs. But the following year, the new "base number" will be lower.)
- Purchase, renovate, and occupy 222 Broadway (former Swiss Bank headquarters) as new world headquarters; Maintain headquarters in NYC.

Inducements from the city:

- $17,000,000 in sales tax retention benefits
- $10,640,000 in sales tax growth credits

Possible Penalties

For layoffs	*For transfers*
Between 0 – 8% of base: NOTHING; Between 8 – 22%: proportional reduction of benefits; Over 22%: benefits proportionally reduced, agreement terminated. If the benefits reduction is greater than the amount of remaining benefits, the company will pay the city the difference.	Between 0 – 2% of base: NOTHING; Between 2 – 10%: future benefits proportionally reduced and recapture fee assessed; Over 10%: benefits cancelled, recapture payment assessed, possible termination of agreement.

Notes:

This deal was to entice Merrill Lynch to expand into the former offices of the Swiss Bank Corporation, which had been lured to Connecticut in 1994. Merrill Lynch had never considered moving jobs out of the city or state. The issue was whether it would expand here or in Connecticut or New Jersey. Merrill Lynch bought 222 Broadway for $73 million, less than half the $150 million that Swiss Bank paid for it nine years earlier.

When the deal was signed, Merrill Lynch had 9,693 employees, despite having agreed to a base of only 9,000. So, in the following year when 9,725 employees were claimed, 725 counted as "growth credit" employees, allowing Merrill Lynch to collect up to $1,450,000 in sales tax exemptions. This is $1,386,000 in benefits that would not have been available if the true number of employees had been used as Merrill Lynch's base.

The job level as of June 2002 represents a "snap-shot" of employment levels as of June 30, 2002. The figure used by the IDA to calculate possible penalties is the average monthly employment for the entire fiscal year. In FY 2002 the average was 8,874. This is a drop of 1.4%, too small to require any penalties. If Merrill's actual employment at the time the deal was signed (9,693) were used as a base number instead of the artificially low 9,000, the current employment level would represent a drop large enough to trigger penalties.

In the summer of 2000, Merrill laid off 1,800 members of its brokerage division. This was followed by more announced layoffs in April 2001: 1,000 employees from its brokerage division, research department and institutional securities group.

Three Merrill Lynch employees were killed in the attacks of September 11, 2001. The remainder of the employees at the WTC were relocated to pre-existing Merrill space in NYC and NJ.

In May 2002, Merrill Lynch agreed to a $100 million settlement with the New York State Attorney General over conflicts of interest by its research managers with its investing arm.[22] The controversy sparked a historic investigation into a number of Wall Street firms.

Merrill Lynch received a $1 million Empire State Development Corporation capital grant through JOBS Now program in 1997.

NASD, NASDAQ, and the AMERICAN STOCK EXCHANGE

Jobs retained	760 (779 with 19 "key" employees that must be transferred from DC by 8/1/02)
Jobs at time of deal	937
Jobs to be created	208
Jobs as of June 2002	1,007

Benefits used as of 2002	$3.99 million

Deal closed: 12/1/2000 **Amount Authorized:** $52 million ($70.1 million w/ expansion)

Term: 20 years **Location:** 86 Trinity, 1 Liberty, 65 & 1500 Bway

Commitments from NASDAQ, NASD, and AmEx:

- Retain at least 760 (later 779) employees in the city
- Transfer 19 key personnel from Washington DC by 8/1/2002
- Maintain headquarters and trading floor facilities at 1 Liberty Plaza and at 78/86 Trinity Place
- Renovate project premises
- PROJECT EXPANSION OPTION – if companies lease/buy an additional 81,000 rsf of space by 6/30/2004, they are eligible to obtain additional benefits. [Not pursued]

Inducements from the city:

- Without project expansion -- $52 million
  - $8.1 million in capital grant savings (must be used by 6/30/2004 or it is forfeited)
  - $3.4 million in energy cost savings
  - $7 million in sales tax savings
  - $33.5 million in real property tax savings
- With project expansion -- $70.1 million (NOT TAKEN)
  - $10 million in capital grant savings (must be used by 6/30/2004 or it is forfeited)
  - $3.4 million in energy cost savings
  - $1.6 million in Mortgage Recording Tax Savings
  - $10 million in sales tax savings
  - $45.1 million in real property tax savings

Possible Penalties

For layoffs	*For transfers*
Between 0 – 8% of base: NOTHING; Between 8 – 20%: proportional reduction of remaining benefits (if this reduction is greater than the benefits remaining, the company must pay the city the difference); Over 20%: agreement terminated.	Between 0 – 8% of base: proportional reduction in remaining benefits, a recapture penalty assessed; Over 8%: remaining benefits cancelled, agreement terminated, recapture penalty assessed.

Notes:

This package provides incentives for the NASDAQ and the American Stock Exchange, two financial markets then owned by the National Association of Securities Dealers, to build a new trading floor and combined headquarters. As part of the deal, NASD agreed to move its headquarters plus 19 “key” employees from Washington, DC.

Under the leadership of chairman Frank G. Zarb, the National Association of Securities Dealers (NASD), moved to build a financial market that he hoped would replace the older New York Stock Exchange as the world's premier securities market. NASD planned to build a new headquarters for both in Times Square, in part to differentiate the exchanges from the Wall Street-based New York exchange.

The companies appear to have over-used their sales tax benefits under the Preliminary Sales Tax Letter by 65%. They repaid this amount in a letter dated 2/1/2001.

In 2002, NASDAQ spun off from NASD and in late 2003 AMEX was sold to its members. As a result, at the December 2003 IDA board meeting, a restructuring of the deal was approved. The one deal would be divided into three separate deals; the companies would accept an overall reduction of $21.58 million in benefits. As of July 2003, the companies committed to new base employment numbers: AMEX – 350; NASD – 285; and NASDAQ – 184. They will collectively pay IDA $1.7 million fee for the restructuring.

NBC

Jobs retained	2,250 (1,600 direct, 650 contractors) This base amount can be reduced by previous rounds of layoffs.
Jobs at time of deal	2,250 (1,600 direct; 650 contractors)
Jobs to be created	0
Jobs as of June 2002	3,527 (2,127 direct employees plus 1,400 "temporary freelancers")

Benefits used as of 2002	$13.92 million drawn down in sales tax benefits between 1997 and June 2002. This amount includes savings authorized under a 1988 subsidy deal.

Deal closed: 12/1/1996 **Amount Authorized:** $7 million addition to 1988 agreement

Term: 14 years **Location:** Rockefeller Center

Commitments from NBC:

- Retain base level of employees in NYC
- Renovate and occupy certain portions of Rockefeller Center
- Maintain headquarters in NYC
- Expend at least $300,000,000 of the bond proceeds by 12/31/2003 on improvements and equipment for the 30 Rockefeller location

Inducements from the city:

- $7 million in sales tax exemptions
    - $2 million under Amended Sales Tax Letter (12/31/1996 – 12/13/2003)
    - $5 million under Extended Sales Tax Letter (1/1/2004 – 12/31/2010)
- Continued use of $800 million in double tax exempt bonds issued under previous retention deal for the purpose of purchasing items without paying sales tax

Possible Penalties

For layoffs

Between 0 – 20% of base: remaining benefits permanently reduced;

Over 20%: all remaining benefits forfeited, lease agreement terminated.

For transfers

Between 0 – 15% of base: remaining benefits proportionally reduced, recapture penalty assessed;

Over 15%: benefits cancelled, recapture penalty assessed, agreement may be terminated.

Notes:

NBC's 1988 deal included $72 million in PILOT savings; sales tax exemptions; commercial rent tax breaks; and a land tax abatement. This deal was tied only to retention of company facility, not to jobs, although documents proposing this package assert that the deal would have the effect of retaining 4,000 jobs in the city.

After NBC's parent company, GE, agreed to buy NBC's longtime home of 1.6 million square feet at 30 Rockefeller Plaza, the city made a deal to provide additional sales tax exemptions worth $7 million, this time tying benefits to a retention commitment of 2,250 jobs. In voting against the deal, Kevin Nunn, Bronx Borough President Fernando Ferrer's representative to the Industrial Development Authority, argued that the additional subsidy was unnecessary to keep NBC in New York, noting that NBC had a 35-year lease on its headquarters and had made millions of dollars in improvements to the facility.

PAINE WEBBER

Jobs retained	2,781 (increased to 4,318 in February 2003) This amount can be reduced by previous layoffs
Jobs at time of deal	3,008
Jobs to be created	474
Jobs as of June 2002	1,553

Benefits used as of 2002	$6.63 million in NPV sales tax benefits plus $740,000 in energy savings (not discounted)

Deal closed: 11/1/1997 **Amount Authorized:** $14.466 million

Term: 20 years

Locations: 1285, 1251 6th Ave, 120, 140 Bway, 200 Park Ave, 590 Madison Ave, 135 W 50th St, 51 W 52nd St

Commitments from Paine Webber:

- Maintain headquarters in NYC
- Retain a base of 2,781 employees

Inducements from the city:

- $10,450,000 in sales tax exemptions
- $1,466,000 in additional sales tax exemptions obtainable through growth credits
- $2,550,000 in energy savings

Possible Penalties

For layoffs

Between 0 – 8% of base: NOTHING;

Between 8 – 20%: sales tax benefits reduced up to 5% plus additional reductions proportional to the amount of energy benefits used in that period;

Over 20%: possible permanent reduction in sales tax benefits. IDA may choose to terminate agreement;

After a 2/1/03 amendment to this agreement, the threshold levels were changed from 8% to 12% and from 20% to 30%.

For transfers

Between 0 – 2% of base: NOTHING;

Between 2% -- 9%: remaining sales tax benefits reduced according to a formula that includes a recapture percentage, plus a recapture fee;

Over 9%: benefits cancelled, recapture penalty assessed, agreement may be terminated.

Notes:

In February 2003, the IDA amended this agreement to include new penalty thresholds (see above) and a new base employment level: 4,318.

The current level of employment is a matter of some confusion. The most recent report specifies that the company has 1,553 full time employees. This is a reduction of about 44% below the base level of 2,781. There is no documentation of any suspension, reduction, or cancellation of benefits. Strangely, the FY 2002 report claims that no job reduction occurred during the year, despite the fact that the previous year's certificate claimed a higher number of employees. There is no correspondence between Paine Webber and the IDA that GJNY has been able to obtain to account for these discrepancies.

REUTERS

Jobs retained	1,800
Jobs at time of deal	1,806
Jobs to be created	2,348; (521 in first seven) plus 150 "recruited" jobs
Jobs as of June 2002	2,096

Benefits used as of 2002	$2.44 million

Deal closed: 5/1/98 **Amount Authorized:** $26 million

Term: 24 years

Locations: 3 Times Sq.; 116 John; 9 Debrosses; 199 Water; 40 E 52nd St; 1700 Bway; 747, 757, 875 3rd Ave; 135 W 50th St

Commitments from Reuters:

- Retain 1,800 employees in NYC
- Maintain headquarters in NYC

Inducements from the city:

- $12,500,000 in sales tax retention benefits
- Up to $12,500,000 in growth benefits
- Up to $1,000,000 in relocation growth credits (one-time benefit of $6,667/employee moved from outside NYC). At least 75 employees must be relocated to NYC in order for the company to receive any of these benefits. This benefit must be used by the end of 2002, or it expires.

Possible Penalties

For layoffs

Between 0 – 3% of base: NOTHING;

Between 3 – 17.5%: sales tax benefits reduced according to a formula (If the reduction is greater than remaining benefits, the company must pay the city the difference);

Over 17.5%: permanent reduction in sales tax benefits, IDA may choose to terminate benefits, redeem bonds, and end the agreement.

For transfers

Between 0 – 2% of base: NOTHING;

Between 2% -- 10%: remaining sales tax benefits reduced, plus a recapture fee;

Over 10%: benefits terminated, recapture penalty assessed, agreement may be terminated.

Notes:

At the time of the deal, 600 union employees were negotiating a contract with Reuters. The company had asked for 104 concessions, union officials said. Peter Szekely, chairman of the Reuters unit of the Newspaper Guild in New York said, "The timing of this is incredible. The same week they're asking us for monumental cuts in wages and benefits, they're getting a sweetheart tax deal. Yet this company has been very profitable for a long time" (New York Times, 11/1/97).

The tax break from the city is in addition to as-of-right real estate and other tax breaks worth an estimated $118 million over 20 years due to its location in the Times Square development zone.

In June 2002, the company returned approximately $27,000 in inappropriately taken sales tax benefits.

TRAVELERS

Jobs retained	8,970 is the "employee exemption base" (level under which the company can be penalized); However, the "growth base" (level over which company can receive growth credits) is 9,436
Jobs at time of deal	8,821 (The previous year they had registered 9,436 employees. It appears they used this figure in their agreement despite the decline in jobs in the intervening year.)
Jobs to be created	2,100
Jobs as of June 2002	11,537

Benefits used as of 2002	Travelers seems to have used its entire allotment of $15.3 million sales tax benefits and then gone $2.4 million over. But correspondence indicates that this may be only because of miscalculations in reporting its use of benefits. The company has amassed $4.141 million in growth credits that it does not seem to have collected to date.

Deal closed: 9/20/95 **Amount Authorized:** $22.1 million

Term: 15 years **Locations:** 65 East 55th St., Manhattan

Commitments from Travelers:

- Retain 8,970 jobs in the city
- Maintain headquarters or Executive offices in NYC

Inducements from the city:

- $15,300,000 in sales tax benefits for purchase of machinery and equipment
- Up to $6,800,000 in sales tax growth credits ($5,000/employee)
- Double-tax exempt bonds to finance sales tax exemptions

Possible Penalties

For layoffs

Between 0 – 5% of base: NOTHING;

Between 5 – 25%: proportional reduction in remaining sales tax benefits;

Between 25 – 40%: all benefits suspended, sales tax letter cancelled until employment rises to 75% of base;

Over 40%: benefits and agreement terminated, bonds redeemed.

For transfers

Between 0 – 10% of base: reduction in remaining sales tax benefits, recapture penalty assessed;

Over 10%: benefits terminated, higher recapture penalty assessed, agreement may be terminated and bonds called in.

Notes:

Travelers seems to have had problems calculating and staying within the bounds of allowable use of its Sales Tax Letter. Documents reflect several expenditures on unauthorized items, such as artwork. The company used its sales tax letter while it was temporarily suspended. And at one point the company used over $3 million more than the maximum amount allowed and had to make a repayment. Finally, correspondence between the company and the IDA indicate that the company may have greatly overestimated its sales tax use by reporting sales tax savings on all purchases, rather than purchases for which sales tax exemptions could be taken. The company also failed to file various reports on benefits used and employee numbers over a period of several years.

In October of 2002, the company was issued a new, temporary sales tax letter that would be renewed contingent upon the filing of missing reporting documents.

In the wake of the 1998 merger of Citicorp and Travelers Group Inc., the merged company, Citigroup, eliminated about 400 jobs at the Travelers brokerage division, Salomon Smith Barney. Salomon Smith Barney was itself the product of Travelers Group's earlier acquisitions of Salomon Bros., Smith Barney and Shearson Lehman.

Frequent mergers resulted in layoffs of Travelers employees. However, if they were immediately replaced by employees from the merged entity that moved from outside the city, the new employees were included in the company’s employment base. Correspondence from the company indicates that it revised upward the number of employees it had in previous years (presumably following increased clarity after mergers were completed) in order to calculate growth credits.

Many in the real estate industry reportedly did not believe that there was a real threat that Travelers would leave Manhattan: The company had bought another brokerage house,

Shearson Lehman, just a year earlier, acquiring Shearson's 1.2 million square-foot office building in Tribeca, which Travelers had already decided to use before the city provided the subsidy. This deal represented a second helping of subsidies for Travelers, which also inherited from Shearson Lehman tens of millions of dollars in tax credits and low-cost electricity under a deal struck in the mid-1980's.

Endnotes

[1] Elected officials including City and State Comptrollers and New York State Senator Franz S. Leichter released reports critical of NYC's corporate retention subsidies in the 1990s. Copies available through links at: http://www.goodjobsny.org/biblio.htm. In February 2001, the Center for an Urban Future released a critical report on NYC retention deals entitled "Payoffs for Layoffs." The report is available online at www.nycfuture.org.

[2] According to press releases and news accounts, approximately 75 corporate retention deals worth over $1 million each were negotiated by the city between 1988 and 2000.

[3] The Policy Shift to Good Jobs: Cities, States and Counties Attaching Job Quality Standards to Development Subsidies, Good Jobs First, November 2003.

[4] *Ibid.*

[5] "Investing In New York: The City Of Opportunity" Mayor Michael Bloomberg's speech before the Association for a Better New York, October 21, 2003. Available online at: www.nyc.gov.

[6] Details on these deals available at http://www.goodjobsny.org/deals_date.htm.

[7] This estimate is taken from the GJNY database of deals (www.goodjobsny.org) that records published information on subsidy deals worth over $1 million each.

[8] Taking Care of Business: Does it Cost Too Much? by Sarah Stecker, New Jersey Policy Perspectives, 2003. Available at www.njpp.org.

[9] "More for NBC: 7M Adds 7 Years to 100 Deal" Peter Grant, Daily News, May 16, 1996.

[10] "CBS Granted More Tax Cuts to Stay Put" Charles V. Bagli, The New York Times, January 29, 1999.

[11] "Two Years Later: The Money; Downtown Grants Found To Favor Investment Field" Edward Wyatt and Joseph P. Fried, The New York Times, September 8, 2003.

[12] "Big Money To Stay Near WTC" Katia Hetter, Newsday, June 3, 2002.

[13] "The Big City; An Outsider Comes Inside To Run Things" John Tierney, The New York Times, November 8, 2001.

[14] Pfizer's subsidy agreement had not been finalized as this report was prepared, and was therefore not yet subject to FOIL requests.

[15] "Reverse Commute; Pfizer bucks the trend as it consolidates operations here; gives 1,000 workers incentives to love NY," Judith Messina, Crain's New York Business, June 23, 2003.

[16] Job figures taken from Bank of America's project application for IDA benefits and cost-benefit summary dated 2/5/04. Bank of America currently faces an investigation by the Securities and Exchange Commission into possible illegal trading and improper storage of documents requested by regulators.

[17] Full Disclosure? Assessing City Reporting on Business Retention Deals, New York City Independent Budget Office, June 2001.

[18] The Policy Shift to Good Jobs: Cities, States and Counties Attaching Job Quality Standards to Development Subsidies, Good Jobs First, November 2003. Available at www.goodjobsfirst.org.

[19] Community Benefit Agreements: Making Development Projects Accountable, by Julian Gross with Greg LeRoy of Good Jobs First and Madeline Janis-Aparicio of the Los Angeles Alliance for a New Economy (LAANE). To download the report, or for more information on CBAs, go to www.laane.org.

[20] Taking Care of Business: Does it Cost Too Much? by Sarah Stecker at New Jersey Policy Perspectives, 2003. Available at www.njpp.org.

[21] "Jersey Links" K. Wright, City Limits Weekly, Number 401, September 29, 2003.

[22] Office of the New York State Attorney General, May 21, 2002 announcement regarding Merrill Lynch's penalty agreement available at: http://www.oag.state.ny.us/press/2002/may/may21a_02.html.