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REPORT

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KANSAS CITY'S 2018 STUDY OF ECONOMIC DEVELOPMENT INCENTIVES:

AN EXAMINATION OF THE PROCESS AND THE PRODUCT

By Patrick Tuohey

KEY FINDINGS

Kansas City's recent study of economic development incentives found that such incentives offer a return on investment almost four times that which was invested. This dramatic discovery runs counter to the vast majority of research on the value of such economic development subsidies.

Based on multiple open records requests over the past few months, it appears the $350,000 "Kansas City Incentives Study" was fatally flawed from its inception and completely unresponsive to the city council's directive:

- Individuals working for and with the city communicated frequently with organizations and individuals with financial interests in maintaining and promoting economic development subsidies in their current form.

- The process—from the bidding process through methodological development and data collection—appears rife with conflicts of interest.
- The report fails to meet the mandate of the city council to measure the "use of economic development incentives and the resulting impacts." In other words, the report does not answer the question of whether incentives actually drive development.

As councilmembers consider the need for economic development incentives, they need information to help them discern good projects from bad, ailing economic areas from vibrant, and an accurate return on each investment. The August 2018 Incentive Study provides no such information.

RECOMMENDATIONS

- The city council should disregard the findings of the August 2018 incentives study and direct all city agencies to do the same.
- The city council should undertake an immediate and thorough investigation into the August 2018 study both through the city auditor and through an independent third-party investigator.
- The city council should outsource an independent study measuring the impact of its economic development incentives. The new study should be free from conflicts of interest, which means city employees, developers, and the economic development professionals who benefit from those incentives should not be involved.
- The council should restructure how it staffs its various economic development agencies and deals with developers seeking incentives in order to avoid conflicts of interest that taint the integrity of its economic development policy and decision-making process.
- The city council should significantly change the way it deals with developers seeking incentives, their attorneys, and economic development consultants. The status quo, which ignores potential and significant conflicts of interest and allows back-door access for developers and their representatives, is unworthy of our great city.

THE 2018 KANSAS CITY INCENTIVES STUDY

In August 2018, the City of Kansas City published an analysis of economic development incentives by the Council of Development Finance Agencies (CDFA) that concluded:

> *A comprehensive study of economic incentives reveals that from 2006–2015 the City of Kansas City received a positive return on investments made by incentives programs, with each incentive dollar generating $3.83 in additional tax revenue.*

This finding is amazing, as would be *any nearly four-fold return on public investment*. Furthermore, this conclusion runs counter to many studies conducted across Missouri and around the country. Those studies concluded that economic development incentives or subsidies do not actually create jobs or spur investment. Consider the following study conclusions:

- 2011: An East-West Gateway Council of Governments report concluded in part:

  > *Although $2 billion in TIF [tax-increment financing] and TDD [transportation development district] investments were for retail development from 1990 to 2007, only 5,400 retail jobs were added to the region, a cost of about $370,000 per job.*

- 2013: A study by Professor T. William Lester at the University of North Carolina at Chapel Hill looked at TIF policy in Chicago. Lester's study addressed the "but-for" test, which is the question of whether the project under consideration (or a similar project) would be undertaken if incentives were not offered. In other words, would the project go undone "but for" the incentive? Lester's conclusion:

  > *After controlling for potential selection bias in TIF assignment, this paper shows that TIF ultimately fails the 'but-for' test and shows no evidence of increasing tangible economic development benefits for local residents.*

- 2016: The St. Louis Development Corporation (SLDC) (the St. Louis equivalent of Kansas City's Economic Development Corporation/EDC) conducted its own study and its researchers concluded:

  While there may be disagreement about the value of some packages, it is clear that the City gains no net benefit from an extremely costly program with no real economic development impact.

- 2017: A Show-Me Institute study of TIF use in Kansas City and St. Louis written by T. William Lester and A. Rachid El-Khattabi concluded:

  We find that the use of TIF has not diverted investment or increased economic activity beyond what we would have expected if TIF was not used.

- 2017: The W. E. Upjohn Institute for Employment Research's study reported:

  Incentives are still far too broadly provided to many firms that do not pay high wages, do not provide many jobs, and are unlikely to have research spinoffs. Too many incentives excessively sacrifice the long-term tax base of state and local economies.

- 2018: A second Upjohn Institute study concluded:

  For at least 75 percent of incented firms, the firm would have made a similar location/expansion/retention decision without the incentive.

Setting aside the fact that the Kansas City incentive study's conclusions were at odds with nearly all other research about economic development incentives, Kansas City policymakers had other reasons to be frustrated when the CDFA's report was presented to the city council on August 16, 2018. The report provided no information that could help them distinguish good incentive investments from bad. Councilmembers' repeated questions about how this report could inform future decisions were met with answers that seemed designed to obfuscate.

Consider the following exchange between one councilmember (Councilman Lucas) and the director of the office of economic development (Kerrie Tyndall), who oversaw the project for the city (starts at 48:15):

> ***Councilman Lucas:*** *So there is some public conversation at times to the idea that we should not incentivize on the Country Club Plaza, we should not incentivize downtown. I guess the answer that I am hearing is that we can't quite answer that question. Is it your view, Ms. Tyndall, that this study can actually help answer the question as to whether we have provided sufficient incentivizing activity such that we do not need to continue to extend incentives in certain areas?*
>
> ***Kerrie Tyndall:*** *The way that I would respond to that question is to say that I think that this study shows that in general economic development incentive tools do work. They do provide an overall positive return on investment to the city when we apply them, but they are ultimately—at the end of the day—a tool. And someone has to take advantage of those tools in order for us to see an impact and from a public-sector perspective we can certainly invest our dollars and be in control of how we invest our dollars when we're trying to leverage investment of the public sector we're somewhat dependent upon them to take advantage of those tools in order to accelerate some of the social gains that we want to achieve. . . .*

In other words, *no*, the study cannot help answer the question.

While the study contends that *every* dollar of subsidy receives an almost four-to-one investment return, Tyndall uses terms like, "in general," and "overall." What does she mean? A year prior, on November 21, 2017, Tyndall told the *Star*:

> *Obviously not every TIF is successful, but I think it's accurate to say that many have yielded significant results and that clearly our community is better off now than 15 or 25 years ago.*

This statement suggests that the city has information regarding the performance of individual TIFs.

Nonetheless, Tyndall's opinion that the community is better off tells us nothing about the contribution made by economic development incentives. Councilmembers wanted to know *how* the city is better off, *to what degree*, and whether the improvement is *due to* economic development incentives. But the report wasn't designed to answer these questions. When Adam Stroud of PGAV

Planners—a consultant to CDFA on this study—was asked directly by Mayor James whether the incentives created the return that the report touts (starts at 1:25:55), he admitted that *he could not answer the question*. The CDFA study omitted any analysis of whether incentives themselves drove development. Council members were not alone in their frustration. *The Kansas City Business Journal* called the report a "hot box of poo" and wondered if the whole effort had been a waste of resources.

The fatal flaw of the CDFA report is that, rather than measuring the impacts *caused by* economic incentives, the report merely tallied the economic activity that occurred *after* incentives were in place and attributed 100 percent of that activity to the incentives. This after-therefore-because-of thinking runs contrary to serious incentives analysis. The CDFA study could have studied the but-for analysis in a few ways. For example, the 2018 examination conducted by the Upjohn Institute listed several approaches common among such efforts. Some studies examine the economic performance of incented firms against unincented firms in the same state. Others compare counties in the same state that differ in their incentive usage. However, Upjohn found that both of these approaches tend to overstate the impact. In the 2017 study published by the Show-Me Institute, the authors compared the growth over time of block groups that received TIF with block groups that did not. Any of these methods would have been preferable to Kansas City's approach.

Was this faulty approach a mere methodological oversight or an intentional disregard of the council's mandate?

Background

In Kansas City, the EDC staffs several development commissions such as the tax increment financing (TIF) Commission and the Land Clearance for Redevelopment Authority (LCRA). When developers apply for a subsidy or abatement of some kind, they apply to the EDC, whose staff then assesses which incentive structure might best meet the needs of the project. The EDC helps make sure the application meets city and state guidelines and makes a recommendation for or against each application to the relevant authority or commission. Appointed members of the appropriate authority or commission, representing the city and/or various taxing jurisdictions, then vote to recommend approval or denial to the city council, which has the final say in the matter.

On December 17, 2015, amidst an effort to extend economic development incentives to an office project in the Crossroads District for BNIM (a Kansas City–based engineering firm) the city council unanimously adopted Ordinance 151075, directing the city manager to "continue the analysis currently underway and to develop a plan for the purposes of engaging an economic consultant and conducting a comprehensive study on the granting of economic incentives." The resolution called for "fact and data driven decision-making" and working collaboratively with other taxing jurisdictions

On January 6, 2016, the editorial board of *The Kansas City Star* wrote:

> [City councilwoman] *Jolie Justus said at a Dec. 17 council meeting she's "concerned with the process [of awarding tax breaks]," just moments before the council unanimously directed City Manager Troy Schulte to pursue a comprehensive economic incentives study. One notable goal is to develop "specific guidelines and policies regulating the use, targeting and management of incentives."*

In a February 8, 2016, story after the collapse of the BNIM TIF application, the *Star's* Diane Stafford and Lynn Horsley wrote the following:

> *"There's a small contingent out there that simply doesn't believe in TIF. They think it's a corporate giveaway, and don't believe the 'but for' test is legitimate," [development attorney Spencer] Thomson said. "They think TIF projects would go through without incentives, but that's just not the case. Developers will not put themselves at great financial risk without a reasonable expectation of return on investment. And our city does a good 'but for' test."*
>
> *The "but for" test is a required third-party analysis that determines expected rates of return with or without incentives. The studies are used to help the city and its tax abatement commissions decide if the proposal merits public incentives to proceed.*

As a result of the collapse of the BNIM TIF application, the city council expressed concern with the process of assessing and awarding TIFs. The but-for test was a significant concern in activist and taxing jurisdiction opposition to the BNIM proposal. The council unanimously sought an analysis of the process, including but-for. Everyone understood that the new study was aimed at the but-for analysis.

The city council issued a request for proposals for the study, EV2228 Economic Development Incentives Analysis, with a due date of June 6, 2016.

In a July 3, 2016, piece in *The Kansas City Star*, reporter Steve Vockrodt wrote that the city was in the process of carrying out the order from the council to undertake a study of the granting of incentives. He wrote:

> *City staffers are evaluating bids from outside companies to do a comprehensive analysis of how incentives have performed. There's no timeline on when that study will be finished.*
>
> *"Such an analysis, if done correctly, will take some time to complete, however, we will be working to complete it as soon as possible," [Mayor] James wrote in an email. "The report will provide the sort of data and facts that can lead to reasonable and responsible improvements to our economic development policy."*

Eight firms submitted proposals. Their names and the bids appear in the following table. All the firms appear to be public accounting or economic impact measurement firms, with the exception of the CDFA, whose website describes it as "a national association dedicated to the advancement of development finance concerns and interests." It's a trade group of developers. The *Star* pointed out that the CDFA is funded by "corporate sponsors with close ties to the development industry." Given its mission and its sponsors, it seems clear that the CDFA has a bias in favor of development incentives. The CDFA was also the highest bidder on the project.

Company	Bid
Council of Development Finance Agencies	$286,678
HR&A Advisors	$276,520*
Economic Development Research Group (EDR)	$247,978
Investment Consulting Associates	$239,549
Public Finance Management, Inc. (PFM)	$202,458
Crowe-Horwath LLP	$189,175
Economic Planning Systems, Inc. (EPS)	$184,800
SB Friedman, Development Advisors	$174,030*

* Does not include travel or expenses

In the midst of choosing which firm should get the city's bid, the *Star* reported on October 18, 2016 (mayor's comments begin at 1:36:00):

> *Mayor Sly James said at a recent meeting of KCStat—a data-crunching initiative of the city's meant to improve its effectiveness—that City Hall doesn't do a good enough job of promoting how economic development benefits the city.*

This statement appears to signal a departure from the mayor's previous commitment to generating the "sort of data and facts that can lead to reasonable and responsible improvements" to a public relations effort to promote economic development incentives. Did this statement foreshadow the study the city actually produced, rather than the one sought by the council? (The final contract with CDFA indicated that at least 10 percent of the total spent by the city in funding the study was to be paid to a government and public relations company, Bennie L. Lewis and Associates, LLC, suggesting public relations was a major concern.)

In that same October 4, 2016 meeting, Kerrie Tyndall offered the following commentary on TIF (starts at 1:33:10):

> *Those increases in TIF districts specifically really underscores the whole but-for concept within these particular investments. Because since we're able to compare it to the baseline growth rate of the city, you can see how much more productive these properties are within the incentivized areas versus other areas where things may not be utilizing incentives.*

The assessment Tyndall described is flawed, because it still would not tell policymakers if it was the incentive itself—as opposed to an improving economy, for example—that led to the increase in productivity. Even so, the CDFA report released by the city almost two years later contains no analysis of the "but-for concept." Nor does the report compare economic growth in TIF districts to the baseline growth rate of the city. Was Ms. Tyndall mistaken in her statement to Mayor James? Or was this important analysis of but-for removed from the report before it was published? If it was removed, why? Recall that in

November 2017, Tyndall acknowledged, "Obviously not every TIF is successful."

By October 27, 2016, the city manager had chosen CDFA as the winning bidder and the city council passed ordinance 160776, which read in part:

> *WHEREAS, in order to evaluate the impacts of incentive use, and determine outcomes, we need to understand when, where and how the City and other taxing jurisdictions will see, and have seen, the benefits of those early investments. . . . That the City Manager is authorized to execute a contract with the Council of Development Finance Agencies in an amount not to exceed $350,000.00 to conduct a comprehensive analysis of the City of Kansas City's historic use of economic development incentives and the resulting impacts.*

"Impacts" and "resulting impacts" are important language here. The City Council wanted to know what happened as a *result of the incentives*. And well it should; without knowing what development happened *because of incentives* and not merely *after* incentives, the whole project is for naught.

It worth noting that in the initial CDFA bid, the Upjohn Institute, whose research has been critical of economic development incentives, was listed as a "team member" on page 10. It was not listed as a team member in the resulting contract or in the final report. The Upjohn Institute was clearly qualified to handle this type of task and understood the policy needs of the council. Why was it removed from the research team?

On the other hand, why was Regional Economic Models Inc. (REMI)—which provides consulting services to the Mid America Regional Council (MARC) and the EDC in connection with economic development incentives—inserted in Upjohn's place? The use of REMI, which is a vendor to the EDC, appears to be a conflict of interest since REMI would be assessing its own client's (EDC) projects—projects in which REMI also may have been involved.

The initial CDFA bid also listed Hardwick Law Firm, LLC ("Hardwick") as a "team member." The firm's founder, Herb Hardwick, serves as legal counsel to the EDC—whose work CDFA would be assessing. Hardwick did not appear in the signed contract with CDFA nor in the final report. So why was it listed? Did the firm provide services or otherwise assist CDFA in the bidding process? If so, was it compensated?

In December 2016, Tyndall reached out to economic development stakeholders—from developers to taxing jurisdictions—and invited them to visit with representatives of CDFA as the study methodology was being planned. But documents obtained from open records requests indicate that while developers and economic development partners were regularly consulted throughout the study, taxing jurisdictions were not.

It was at one of these meetings, a February 27–28, 2017, CDFA site visit, that developers expressed concern with how the report might be used. Matt Webster was at the time a vice president at the Ameritas Investment Corporation. He wrote of his concern to Bob Langenkamp, president and CEO of the EDC:

> *CDFA did not seem to understand that we need a report that explains and supports the city's economic development policy in the context of local and regional competition. Such a report would be helpful in dealing with the KCMO Library and citizen petitioners interfering with an orderly eco-devo policy.*

Langenkamp cut and pasted these and other concerns into an email to Tyndall on March 9, 2017. In doing so, Langenkamp arguably promoted a view that the report needed to support existing policy so that the city could defend itself from criticism by other taxing jurisdictions and citizens. Such a view would be a stunning perversion of the council's mandate but would harken back to Mayor Sly James contending that "City Hall doesn't do a good enough job of promoting how economic development benefits the city."

Tyndall responded to Langenkamp the same day, writing "I am fully confident that CDFA and their team understand the regional and political context of this analysis," and seemingly agreeing that the CDFA study is a public relations tool. Tyndall ends her note by saying she'll pass the feedback on to CDFA, adding, "when you have time for a beer, I'll give you my unfiltered response." By "unfiltered response," does Tyndall means a response that is not subject to open records requests? She did pass along Webster's and Langenkamp's concerns, and the next day, Mark Barbash, Senior Strategic Advisor to CDFA, responded by email, "We will keep these in mind as we address the report."

Barbash was no minor player in this report; draft copies indicate that he authored it. Barbash's professional career has been spent as an economic development consultant and trainer to economic development staffers.

Nor was Langenkamp's email to Tyndall an isolated event. A January 2018 draft of the report offered that "the consulting team benefited from *extensive* input from staff at the City and the Economic Development Corporation throughout the project." (Email files obtained through open records requests show that meetings to discuss study methodology included many city employees and that drafts of the report were disseminated throughout city hall to solicit feedback.)

The role of the EDC in administering economic incentive programs—and particularly its funding structure—are important here. The EDC is a 501(c)(4) nonprofit lobbying organization that staffs the city's various economic development incentive programs. It is funded through fees generated by the economic development programs authorized by the city. As a result, EDC's staff has a strong financial interest in approving and expanding development subsidies. That is why it is so troubling that (1) the EDC's counsel's law firm initially appeared as a member of the CDFA team, (2) EDC's existing consultant, REMI, was chosen to evaluate economic development incentives for the CDFA team, and (3) from the very beginning, EDC communicated a desire to use the CDFA report to defend city practices.

Just as proponents of economic development subsidies desired, the report's conclusions have been (to use Matt Webster's phrasing) "helpful in dealing with the KCMO Library and citizen petitioners interfering with an orderly eco-devo policy." In its April 2019 draft position statement opposing a 50 percent cap on incentives brought by citizen petitioners, the Greater Kansas City Chamber of Commerce offered:

> *Research on this matter should include an examination of the projected impact of such a policy change and incorporate findings of the 2018 study of KCMO tax incentives, which demonstrated a return on investment of $3.83 in additional tax revenue for every incentive dollar used.*

While the CDFA study does not answer the questions raised by the city council, it confirms that the system in place to assess and approve development incentives in Kansas City is flawed. The system appears to tolerate multiple conflicts of interest and gives a great deal of deference to private developers seeking public subsidies. The study of incentives released in August 2018 is neither credible nor comprehensive, and it certainly does not meet the requirements set forth by the authorizing ordinance.

SUMMARY

Based on the following timeline of events, Kansas City's 2018 study of economic development incentives appears to be more a public relations effort than an objective study to assess the benefits of such incentives.

- Mayor James said the city needs to do a better job of promoting incentives.
- The City Manager selected a vendor who presented the highest bid and appears to have a clear conflict of interest, and then paid that vendor more than the bid for the study.
- The selected vendor initially had identified the EDC's counsel's law firm as a team member, even though the EDC was one of the organizations to be evaluated.
- The selected vendor dropped from its team a respected independent research institution that had been critical of economic development incentives and replaced it with a vendor that provided services to the EDC in connection with its incentives.
- Before research even began, economic development leaders in the city discussed the need for the report to support the city's development policy.
- The report was conducted using a significantly flawed methodology—it simply was not designed to assess whether incentives actually drove development.
- Drafts of the report were shared with multiple city

employees to solicit their feedback.

- In the years leading up to the report's release, Tyndall twice referenced research about whether TIFs outperform baseline city growth, but no such data appears in the CDFA report.
- Due to its flawed methodology, the report does not meet the basic requirements of the city ordinance for a "comprehensive analysis" of the "resulting impacts" of incentive use.

Absent evidence to the contrary, it seems reasonable to conclude that the city council did not get the product it sought, and $350,000 of taxpayer money was wasted.

OUTSTANDING QUESTIONS

The following questions are in many cases a restatement of what appears previously. These questions need answers so that we can (1) understand how such a flawed report was designed and published, (2) determine whether self-interested parties exerted undue influence over the research process, and (3) ensure that future studies and policy decisions are methodologically sound and independent.

- Did the City of Kansas City adhere to its own procurement processes?
- Why was the highest bidder chosen? And why was that winning vendor ultimately paid substantially more than its bid?
- Why was the chosen vendor one that had an interest in promoting economic development incentives?
- Why was a law firm with ties to the EDC listed as a team member with CDFA in its bid to review EDC programs?
- Why was an experienced, credible research partner like the W. E. Upjohn Institute touted in the winning proposal but dropped from the study after the bid was accepted?
- Why was REMI, a firm that provides consulting services on economic development to the EDC, a member of CDFA's team?
- Why would a study of economic development incentives need to employ a government and public relations company—Bennie L. Lewis and Associates, LLC, whose services comprised about 10 percent of the total contract cost?
- What role did the EDC play in vendor selection?
- Did the councilmembers know that seven other responders submitted proposals lower than CDFA?
- What did councilmembers know about CDFA's original bid and its ultimate payment?
- Did the councilmembers consider whether CDFA possessed a conflict of interest on this matter? If so, how did the Council resolve any potential conflicts?
- How and by whom was the research methodology developed?
- What role did the EDC play in methodology development?
- What role did developers and development attorneys play in the development of the methodology?
  - What were their concerns?
  - How were those concerns addressed?
- Were other taxing districts consulted in the development of the methodology?
  - What were their concerns?
  - How were those concerns addressed?
- Who decided not to conduct a but-for analysis of incentives—arguably the most important analysis any such report could include? Why?
- Did the study methodology include all the incentives offered—including property taxes diverted from other taxing jurisdictions such as schools and libraries?
- Did the study methodology include all development costs the city incurred, such as money to cover the bond payments for projects such as the Citadel and the Power & Light District?
- Did the study methodology attempt an independent accounting of new jobs created by incentives, or did it

simply accept the self-reported, self-defined numbers from incentive recipients?

- Why were CDFA's final report deadlines extended at least four times?
- Why is the EDC, which staffs agencies such as the TIF Commission, funded by fees generated by the programs it oversees?

We have answers to some of the questions above, and they do not support the conclusion that the 2018 Study of Economic Development Incentives was conducted in good faith. Perhaps full transparency will support a different conclusion, but the evidence to date indicates that the study was designed to support predetermined conclusions.

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NOTES

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