



## **Business Subsidy Policy**

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City of Becker Economic Development Authority  
12060 Sherburne Ave  
P.O. Box 250  
Becker, MN 55308  
763.261.4302

# **CITY OF BECKER POLICY AND PROCEDURES RELATING TO THE USE OF BUSINESS SUBSIDIES**

## **Introduction**

Chapter 116J, Business Subsidies of Minnesota Statutes, Sections 116J.993 to 116J.995 (MN Business Subsidy Law) requires that the City of Becker, as a local government agency within the meaning of the MN Business Subsidy Law, adopt criteria, following notice and a public hearing, for the awarding of business subsidies. Terms used in this Policy are intended to have the same meanings as used in the MN Business Subsidy Law, and this Policy shall apply only with respect to subsidies granted under the MN Business Subsidy Law if and to the extent required thereby.

## **I. PURPOSE**

*For the purposes of this document, the term “City” shall include the Becker City Council, and Economic Development Authority.*

Business Subsidies granted to recipients must serve a public purpose as determined by the City of Becker in light of the enabling legislation or authority authorizing the Business Subsidy to be made. A Business Subsidy must meet a public purpose other than or in addition to increasing the tax base of the City of Becker and other taxing jurisdictions.

The purpose of this policy is to establish guidelines and criteria regarding the use of business subsidies, such as tax increment financing (TIF), tax abatement, and other business subsidies for private development projects within the City of Becker. This policy shall be used as criteria for providing subsidies, in addition to the requirements and limitations set forth by provisions of Minnesota State Statute 116J.993 to 116J.995 (MN Business Subsidy Law), and the City’s policy and guidelines of the particular form of subsidy.

These guidelines shall be used in processing and reviewing applications requesting business subsidy assistance. The fundamental purpose of business subsidies in the City is to encourage desirable development or redevelopment that would not otherwise occur “but for” the assistance provided through business subsidies.

It is the intent of the City to provide business subsidies, as well as other incentives that the City may deem appropriate, at the shortest term required for the project to proceed taking into account established policies, specific project criteria, and demand on city services in relation to the potential benefits to be received from a proposed project. Meeting policy guidelines or other criteria does not guarantee the award of a business subsidy. Furthermore, the approval or denial of one project is not intended to set precedent for approval or denial of another project.

Whenever possible it is the City’s intent to coordinate the use of business subsidies with other applicable taxing jurisdictions.

## **II. DEFINITION OF “BUSINESS SUBSIDY”**

The following types of assistance having a value in excess of \$150,000 are defined as a “business subsidy” within the MN Business Subsidy Law. A public hearing is required by Minnesota State Statute.

- State and local government agency grants;
- Contributions of personal property, real property, or infrastructure;
- The principal amount of a loan at rates below those commercially available to the recipient;
- Reductions or deferrals of taxes or fees;
- Guarantees of any payment under any loan, lease, or other obligation; and,
- Preferential use of government facilities.

## **III. THE FOLLOWING FORMS OF FINANCIAL ASSISTANCE ARE NOT CONSIDERED A BUSINESS SUBSIDY**

1. A business subsidy of less than \$150,000.
2. Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or other general criteria.
3. Public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made.
4. Redevelopment property polluted by contaminants as defined in section 116J.552 subdivision 3 of the MN Business Subsidy Law.
5. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code, and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50% of the total cost.
6. Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services.
7. Assistance for housing.
8. Assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance subdistrict as defined under section 469.174, subdivision 23;
9. Assistance for energy conservation.
10. Tax reductions resulting from conformity with federal tax law.
11. Workers’ compensation and unemployment compensation.
12. Benefits derived from regulation.
13. Indirect benefits derived from assistance to educational institutions.
14. Funds from bonds allocated under chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;

15. Assistance for a collaboration between a Minnesota higher education institution and a business.
16. Assistance for a tax increment financing soils condition district as defined under section 469.174, subdivision 19.
17. Redevelopment when the recipients' investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current years estimated market value.
18. General changes in tax increment financing law and other general tax law changes of a principally technical nature.
19. Federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency;
20. Funds from dock and wharf bonds issued by a seaway port authority;
21. Business loans and loan guarantees of \$150,000 or less;
22. Federal loan funds provided through the United States Department of Commerce, Economic Development Administration; and
23. Property tax abatements granted under section 469.1813 to property that is subject to valuation under Minnesota Rules, chapter 8100.

#### **IV. PUBLIC PURPOSE OBJECTIVES OF BUSINESS SUBSIDIES**

In accordance with the MN Business Subsidy Law, Business Subsidies granted to recipients must serve a public purpose as determined by the City of Becker in light of the enabling legislation or authority authorizing the Business Subsidy to be made. A Business Subsidy must meet a public purpose other than or in addition to increasing the tax base of the City of Becker and other taxing jurisdictions. The City will consider using business subsidies to assist private development projects to achieve one or more of the following public purpose objectives:

- o To retain local jobs and/or increase the number and diversity of jobs that offer stable employment and/or attractive wages and benefits.
- o To enhance and diversify the City of Becker's tax base.
- o To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development.
- o To achieve development on sites which would not be developed without business subsidies assistance.
- o To remove blight and/or encourage development of commercial and industrial areas in the city that result in higher quality development or redevelopment and private investment.
- o To offset increased costs of development of specific properties when the unique physical characteristics of the site may otherwise preclude private investment.

#### **V. COMPLIANCE**

The Business Subsidy from the City of Becker must satisfy all requirements of the MN Business Subsidy Law. The City shall require the recipient to certify that it is eligible to receive a Business Subsidy.

Businesses failing to comply with the subsidy agreement will be subject to fines, repayment requirements at the rate established within the MN Business Subsidy Law, and be deemed ineligible by the State to receive any loans or grants from public entities for a period of five years.

Except as provided for refinancing below, the recipient must agree to provide to the City and other governmental agencies and departments the information required by the MN Business Subsidy Law and such other information as the City may, at its discretion, require. The recipient shall also be required to provide information, which will be reported to the State of Minnesota until all obligations have been met under the subsidy agreement.

## **VI. JOBS AND WAGES**

While it is recognized that the creation of good paying jobs is a desirable goal which benefits the community, it must also be recognized that not all projects assisted with subsidies derive their public purposes and importance solely by virtue of job creation. In addition, the imposition of high job creation requirements and high wage levels may be unrealistic and counterproductive in the face of larger economic forces and financial and competitive circumstances of an individual business.

With respect to subsidies, the determination of the number of jobs to be created and the wage levels thereof shall be guided by the following principles and criteria:

- A. Each project shall be evaluated by recognizing its importance and benefit to the community from all perspectives, including created or retained employment positions.
- B. In cases where the objective is the retention of existing jobs, the recipient of the subsidy shall be required to provide reasonably demonstrable evidence that the loss of these jobs is imminent.
- C. The setting of job goals should be sensitive to prevailing wage rates, local economic conditions, external economic forces over which the grantor nor the recipient of the subsidy has control, the individual financial resources of the recipient and the competitive environment in which the recipient's business exists.
- D. The jobs created with the assistance of business subsidies must have average wages of at least \$12 / hour. Deviations from the job and wage goal may be considered for projects that will result in a significant increase in tax base. Deviations less than the wage floor will be considered in accordance with the requirements of the MN Business Subsidy Law.

## **VII. REFINANCING**

If a Business Subsidy consists in whole or in part of the refinancing of tax-exempt financing previously issued by the City or other grantor, it shall not be necessary to have an additional public purpose for the refinancing. The refinancing shall be deemed to have the same public purpose that prompted the original tax-exempt financing.

If a Business subsidy consists entirely of the refinancing of tax-exempt financing issued by the City before the effective date of the MN Business Subsidy Law (August 1, 1999), the City may, at its discretion, determine, if it finds the public benefit received as a result of the original tax-exempt financing to have been substantial (including the creation of employment opportunities), that such benefits are sufficient, without additional job and wage goals or a requirement for continued operations of the recipient in the City, to meet the requirements of the MN Business Subsidy Law and that none of the reporting or other requirements of the MN Business Subsidy Law will be applicable to such Business Subsidy.

### **VIII. OTHER EVALUATION CRITERIA**

The following evaluative criteria although not an exhaustive list recognizes that the award of a Business Subsidy may serve a variety of public purposes of varying importance depending upon the specific project facilitated by the subsidy. The degree of importance to be attached to various public purposes that may be served by a particular project must therefore involve the exercise of sound judgment after weighing all relevant criteria.

1. Tax Base. The net increase in property taxes estimated to be generated by the project in the first full year of operation per \$25,000 of the Business Subsidy, except in circumstances defined for refinancing noted above.
2. Services to the Community. Whether the project will provide services in the community and the need for such services. For example, the project may provide health services, retail convenience services such as a grocery store, or welfare services needed in the community.
3. Non-Developable Property. Whether the project is located on property which needs but is not likely to be developed or redeveloped because of blight or other adverse conditions of the property. For example property may require remediation due to pollution and the cost of making the land available for redevelopment exceeds the fair market value.
4. Design and/or Other Amenity Concessions. Whether, as a result of the business subsidy, the project will include design and/or amenity features not otherwise required by law. For example, the project may, at the request of the City, include landscaping, open space, public trails, employee work out or day care facilities, which serve a public purpose but aren't required by law.

5. Preferred Business. Whether, apart from any needed services to the community, the project is more compatible with the comprehensive plan than other permitted uses of the property. For example, the project may involve a “clean” industry such as a technology or service business, which is preferred over other permitted uses.
6. Utilization of Existing Infrastructure Investment. Whether and to what extent the project will utilize existing public infrastructure capacity OR the project will require additional public funded infrastructure investments.
7. Leveraged Public Funds. For every dollar of Business Subsidy to be provided for the project, the minimum amount of private funds which will be applied towards the capital cost of the project.
8. Spin Off Development. The dollar amount of non-subsidized development per \$25,000 of business subsidy the project is expected to generate in the surrounding area and the need for and likelihood of such spin off development.
9. Growth Potential. Based on recipient’s market studies and plans for expansion, whether and to what extent the project is expected, within five years of its completion, to be expanded to produce a net increase of full time equivalent jobs and of payroll.
10. Direct Monetary Return on Public Investment. Arrangements made or to be made for the City to receive a direct monetary return on its investment in the project. For example, the Business Subsidy may be in the form of an investment-bearing loan or may involve a profit sharing arrangement.
11. Other Factors. Depending on the nature of the project, such other factors as the City may deem relevant in evaluating the project and the Business Subsidy proposed for it.

In applying the evaluative criterion for a project, the following shall apply:

- a) The City may include any other business subsidy received, or to be received from a grantor other than the City.
- b) If the Business Subsidy is a guaranty, the amount of the Business Subsidy may be valued at the principal amount of the guaranteed payment obligation.
- c) If the Business Subsidy is property, the amount of the subsidy shall be the fair market value of the property as determined by the City.
- d) If the Business Subsidy is received over time, the City may value the subsidy at its present value based on a discount rate equal to the interest rate which the City determines is fair and reasonable under the circumstances.

- e) The City shall determine an appropriate financing structure which limits future financial risk to the City and its taxpayers.

## **IX. SUBSIDY AGREEMENT; REPAYMENT**

Except in circumstances as described in refinancing above, the City will enter into a subsidy agreement as required by the MN Business Subsidy Law. The subsidy agreement will specify the obligations of the recipient to repay the Business Subsidy, in whole or in part, if it fails to achieve the goals contained therein.

The subsidy agreement may be incorporated into a broader development agreement for a project. The recipient must commit to continuous operations at the site where the subsidy is used for at least five years after the benefit date. The agreement shall contain, at a minimum, all requirements imposed through the MN Business Subsidy Law.

## **X. PUBLIC HEARINGS**

A public hearing is required for all Business Subsidies from a local grantor when it exceeds \$150,000. This hearing can be held in conjunction with other public hearings as may be required however notice and other requirements must be in accordance with the MN Business Subsidy Law requirements. These include:

- A notice must be published in a local paper of general circulation at least ten days before the hearing.
- The notice must identify the location of information about the subsidy, including a summary of the terms of the subsidy. (This means the subsidy agreement must be negotiated prior to the hearing).
- Published notice should be “sufficiently conspicuous in size and placement to distinguish the notice from surrounding text”
- The grantor must make the information available in “printed paper copies” and, if possible, on the Internet.

## **XI. MODIFICATIONS; APPLICABILITY**

The foregoing Criteria for granting Business Subsidies may be amended or supplemented from time to time by the City Council of the City of Becker in accordance with the MN Business Subsidy Law. Any subsidy agreement relating to a Business Subsidy awarded pursuant to the foregoing criteria may provide, to the extent permitted by the MN Business Subsidy Law, that if the MN Business Subsidy Law is amended, either prospectively or retroactively, to provide that it does not apply to the Business Subsidy, then the subsidy agreement or provisions thereof required by the MN Business Subsidy Law shall no longer be in effect. The foregoing criteria are intended to apply when the City is itself awarding a Business Subsidy or when the City is acting on behalf of other local government agencies pursuant to a joint powers agreement or otherwise.



Adopted this 21st day of December 1999 by the Becker City Council.  
Amended this 14<sup>th</sup> day of January 2002 by the Becker Economic Development Authority.  
Amended this 5th day of February 2014 by the Becker Economic Development Authority.