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Allowing Hybrid And Remote Work May Cost Companies Their Tax Incentives

October 4, 2022 Jacob Wallace, Bisnow Washington, D.C.

As workers drag their feet in returning to the office, the foundation beneath the billions of dollars in incentive agreements between local governments and major corporations is crumbling.

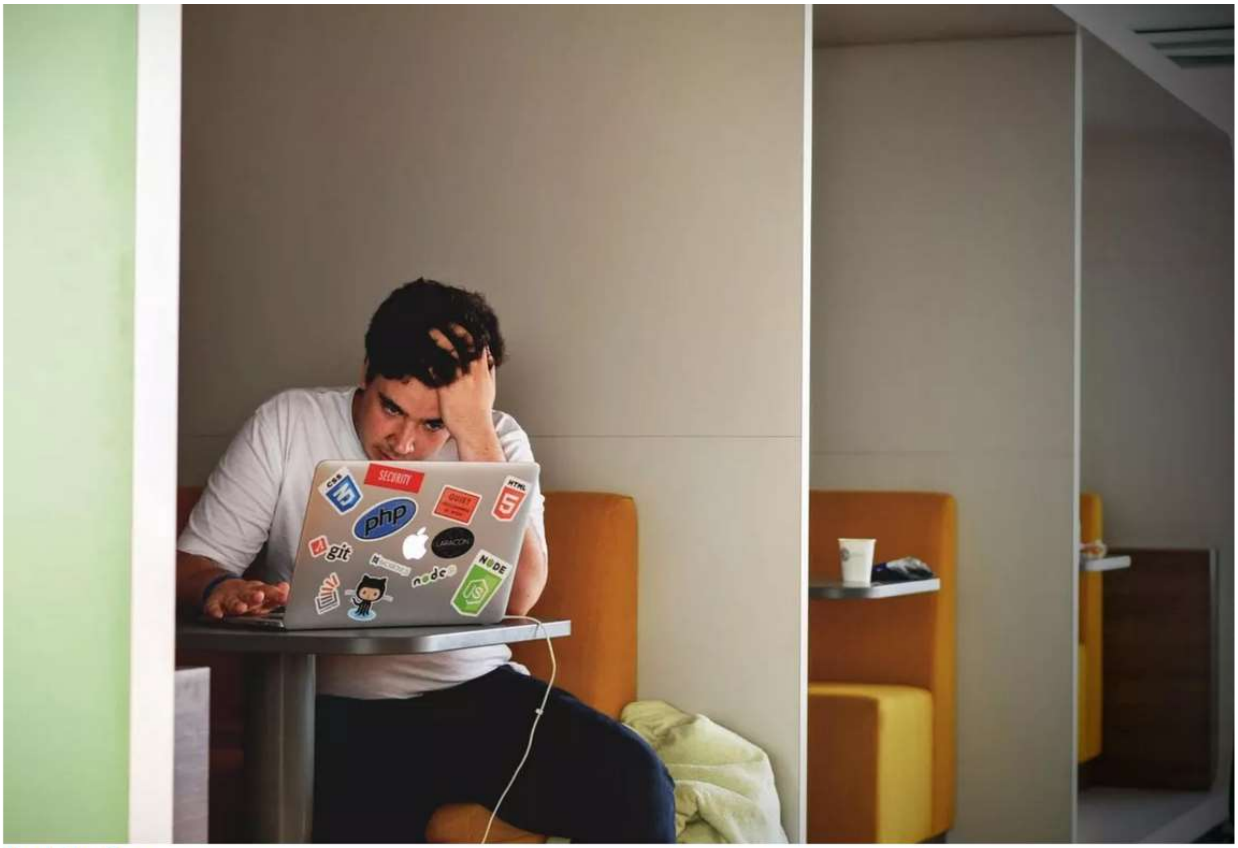
States and localities spent up to $95B in economic incentives annually in the years before the pandemic, experts estimate, and many of the corporate recipients agreed to have their workers in the office full time.

Economic development agencies are now scrambling to accommodate changing work patterns while maintaining the activity that in-office workers bring to a city. But businesses that would like to keep their cash grants, tax rebates and other incentives are urging those agencies to allow them to abandon the office altogether.

“Some incentives programs need to be modified to allow for job creation that is placeless,” Gregg Wassmansdorf, chair of the Site Selectors Guild and senior managing director for global corporate services at Newmark, told *Bisnow*. “That's creating a challenge.”

A report the Site Selectors Guild released last month revealed that 100% of its members — including consultants from JLL, CBRE and Newmark — agree that employment-based incentives have been rendered less relevant by the pandemic and that economic development agencies aren’t pivoting fast enough as a result.

In Texas, tens of millions of dollars of incentives the state agreed to pay companies through its Enterprise Zone program may be at risk of being canceled. The program represents more than $2.3B of investment in projects for fiscal year 2022, but the millions of dollars in tax refunds that participating companies expected to receive were predicated on employees working at their job site at least 50% of the time.



Pexals/Tim Gouw

The era of remote work is causing headaches for economic development agencies that have long structured incentives around workers generating activity through commuting to the office.

If the program's language isn't updated to allow telework, companies could lose out on millions in incentives they had negotiated, Reece Macdonald, a director in the site selection and business incentives practice at Dallas-based Ryan, told *Bisnow*.

"It's going to cause a delay for people that are actively participating," said Macdonald, whose firm is one of several lobbying state legislators to make changes. "It is a very material impact."

Some state-level economic development agencies agree, and Macdonald is hopeful Texas legislators will make a change during the next legislative session in 2023.

Other states are more open to giving tax breaks to companies that have hybrid or remote work policies. In Georgia, the Department of Economic Development has allowed teleworkers to count toward its Job Tax Credit for the past three tax years. In Virginia, statewide incentives have become increasingly friendly to companies that promise to hire in the commonwealth even without an expanded physical footprint.

But municipal agencies — which are much more reliant on the proceeds from an office build-out's capital expenditure and the steady tax revenue that comes from locally-based workers — have set a hard line in defense of in-person work: no time in the office, no cash.

“If you incentivize a company and give a company money, but their employees are in another state, what’s the net benefit?” said Charisse Bodisch, who leads the Opportunity Austin regional economic development initiative. “They’re not contributing to the community as a whole.”

The position of Opportunity Austin’s 20 constituent economic development corporations mirrors that of the heads of many large companies around the country, who have urged a full-scale return to the office for more than two years.

The debate over whether to tie incentives to office workers adds yet another cash consideration that office tenants and landlords must weigh when they decide how much returning to the office is worth to them.

Site selectors, for their part, say their corporate clients want that cash consideration removed from the conversation entirely.

“Every company's going to have a different back-to-work policy, and that's going to be a company-specific decision,” said John Boyd, a partner at site selection consultancy The Boyd Co. “I don't think companies are going to be bullied to do that, and it's not a good economic development approach either to try and bully companies and dictate their back-to-office plans.”

Google Maps
One Bethany at Watters Creek in Allen, Texas, where the Allen Economic Development Corp. is based.

Some local economic development agencies are willing to get creative with remote or hybrid work. Plano, Texas, has begun structuring deals where a hybrid worker is worth one half of a full-time employee in incentive packages. Allen, Texas, meanwhile, has negotiated deals where the incentive provided per worker is a sliding scale based on the number of days a worker is expected to be in the office.

The era of remote work has meant economic development officials need to protect taxpayer dollars by lowering incentives for workers who won't come into the office, Allen Economic Development Corp. CEO Daniel Bowman said.

"When it comes to the bread and butter of what we do … that is something that we as economic developers need to rethink," Bowman said. "Our old economic development agreements all said, 'You've got to work in the office. Full-time equivalent positions, they are there every day, and you get this much per job and that's how it works.' And I think that those types of deals are just too simplistic and aren't going to work anymore."

The decision to scale down the cash offered to corporate relocations runs counter to long-term trends in the world of economic incentives, where an accelerating arms race has taken place in recent decades, said Greg LeRoy, executive director of Good Jobs First.

That competition has created a favorable environment for large corporations looking for substantial economic incentive packages, highlighted by Amazon's blockbuster HQ2 search that began in 2017.

The culmination of that search, an incentive deal Amazon struck with the commonwealth of Virginia and Arlington County, didn't provide the tech giant with as much immediate, direct cash as other offers. The deal may prove to be a harbinger of economic incentive packages to come.

Jason El Koubi, the president and CEO of the Virginia Economic Development Partnership, helped spearhead the HQ2 deal. He said the state's contributions, which reportedly included $375M toward higher education in Northern Virginia and $195M in infrastructure improvements, were focused on providing benefits that extend beyond one individual company.

So far, neither the state nor Arlington County have paid Amazon anything, despite hundreds of millions of dollars in private investment and rising office towers. The $750M in grants that Virginia agreed to give Amazon are contingent on the tech company ensuring its promised 25,000 workers are "principally located" in Arlington.

Courtesy of Clark Construction Group

A flag is raised during a topping out ceremony for the Met Park 6/7/8 buildings, part of the first phase of Amazon's HQ2

“The Amazon deal is very sound from the commonwealth's perspective,” El Koubi said. “There is this geographic tie to ensure that jobs that are teleworking far away would not qualify.”

LeRoy said Virginia played a “smart poker game” during the HQ2 search at a time when economic development professionals in other cities and states compiled some of the most business-friendly terms ever for an incentive proposal.

“Arlington and Virginia were tight-fisted and still won,” LeRoy said. “Lots of people should have taken that as a teachable moment.”

Since that deal, though, Virginia has become more open to teleworking as long as it occurs from within the state. The commonwealth has allowed teleworking jobs to be counted toward economic incentive grants since 2019, and in 2021 the General Assembly passed a law waiving the need for businesses to make a real estate investment in order to receive funding from Virginia’s Opportunity Development Fund if at least 75% of the positions it plans to hire are remote Virginia workers.

That kind of deal is easier to stomach for a state-level agency than a local agency, El Koubi said.

“Would a local government provide incentives to a company that is based predominantly on telework? You could do it, but … I think the locality would want some sort of assurance that the jobs would be held by teleworkers in that locality,” El Koubi said.

The philosophy of incentivizing locally based jobs undergirding the HQ2 deal persists, and it could cause tension between municipalities and corporate clients looking to relocate with a minimal office footprint, LeRoy said.

“If you expect governments to get something back in return for incentives in the form of a tax base, you've got to be paying attention to employment as a ripple effect of this deal,” LeRoy said.

Of course, a partial incentive is still an incentive. Ann Marie Collins, an executive vice president at Savills, has been saying even during the most pessimistic periods of 2020 that the era of employment-based incentives would continue.

In a white paper released in May 2020, she said public agencies have historically been lenient on incentive packages during crises like the Sept. 11 attacks and the Great Recession, changing terms of contracts in some cases to ensure the incentives kept paying out.

Today, Collins believes that employment-based incentives may shift to accommodate hybrid work but will otherwise stick around so long as the workers counted toward the incentives stay close by.

“I think there will continue to be investments, [but] I think those investments will look different,” Collins said. “We’re not really sure what that looks like yet, nobody has that sort of crystal ball.”

Those familiar with the world of site selection are quick to caution that incentive packages sweeten a deal that’s already in the works rather than serve as the main determinant for a project.

Real estate firm Ryan is moving its headquarters from Dallas to Plano, in part to be closer to talent and the ascendant Class-A office market. Maher Mosa, a former mayor of Frisco, Texas, and a principal at Ryan, said his firm could have received “20 times” the incentives it received were it to relocate to a more desperate municipality.

But signing on to a 400K SF office in Plano gave Ryan access to nearly half a million dollars in incentives nonetheless, benefits that Mosa also pursues in deals he negotiates for his clients.

Wikimedia Commons/Karen Almond

The Plano submarket, home of Legacy West, has one of the highest retail rental rates for Class-A space in DFW at $49 per SF.

“The project cost, there's a delta for what they budgeted for and what it really takes to get there, and that's where the incentives become critical, is to make up that delta,” Mosa said.

In the age of remote work, Mosa said, it’s tough for municipalities to justify providing incentives for office workers who aren’t commuting to the office Monday through Friday. But he cautions that at a time when construction costs are elevated and businesses are doing whatever they can to hire and retain talent, an incentive package that can sweeten the pot is more desirable than ever.

“It would be, in my opinion, foolish to start modifying or taking away some of these incentive packages,” Mosa said. “I think those communities will figure out really quickly that that was a mistake.”