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COMMUNITY BENEFIT PLANNING AND AGREEMENTS:

A Summary Overview

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Community Benefit Planning and Agreements
A Summary Overview

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Introduction and Purpose of Report:

This white paper explores the history and current application of community benefits. Community benefits are a tool for promoting more equitable development practices by explicitly considering the needs of the community where a proposed development is to occur. Community benefits are important for community stakeholders to understand given recent increases in their use by local communities and policy initiatives undertaken by the Biden administration to incorporate community benefit plans in the Bipartisan Infrastructure Law, the Inflation Reduction Act, and Executive Order or "Justice40" (Bipartisan Infrastructure Law, 2021; Inflation Reduction Act, 2022; Exec. Order No. 14008, 2021; Rosen, 2023, p. 2). The implementation of community benefits has the potential to lead to many positive changes in a community, such as job creation, affordable housing, worker protections, and local amenities (Powerswitch Action & Community Benefits Law Center, 2016). This paper will briefly examine various forms of "community benefits" in publicly supported economic developments that have evolved over the decades in the U.S. This paper will also discuss recent practices around Community Benefits Agreements, Community Benefits Ordinances, and Community Benefits Plans. Ultimately, this white paper is intended to clarify the variety of community benefits, their history and past use while also providing additional insight into the qualities that contribute to making community benefits an effective tool for ensuring equitable economic development.

What Are Community Benefits?

Over the last few decades, development projects have been growing in frequency and scale (Stephan, 2022, p. 282; Rosen, 2023, p. 1). These larger-scale and potentially more disruptive developments are often placed in historically underserved and low-income neighborhoods. Community benefits have been used to specifically identify how large-scale development projects can positively impact the local economy and neighborhood. Negotiated community benefits have been initiated in a variety of different forms including, but not limited to, mutual benefits-sharing agreements, Impact and Benefit Agreements, community workforce agreements, project labor agreements, Native American tribal agreements, and good neighbor agreements (Department of Energy, 2022). While each agreement is unique to the community's context, through creation and implementation of a community benefit plan or agreement, the developer and community work together to establish mutual benefits from the development. Regardless of what comprises a particular plan, there should be an incentive for both parties to come together. Developers receive public funds or community support for their development, and in exchange, they work with the community to ensure that the development is an agent of positive change for the residents.

At the heart of the community benefit movement is the belief that "public and private sector investment in economic development should bring measurable, permanent improvements to the lives of affected residents, particularly low-income communities of color, through the creation of good jobs, affordable housing, and neighborhood services" (Powerswitch Action &Community Benefits Law Center, 2016). No two communities have the exact same needs; therefore, benefits are usually specific and "tailored" to each neighborhood's needs (Gross et al.,2005). Some common benefits may include scholarships, environmental benefits, job training, right-to-organize commitments, quality of life considerations, priority hiring, increased affordable housing and transit units and community engagement (Gross et al., 2005; Butler, 2024). These benefits are valuable in any community but are especially crucial in historically underserved communities that larger-scale development projects often affect most (Rosen, 2023, p. 1).

Underserved communities can be susceptible to many harmful consequences of development, such as "neighborhood change, gentrification, and displacement...where residents already grapple with contemporary and historical injustice, racial discrimination, institutional failures, and disinvestment" (Rosen, 2023, p. 1). Community benefits can potentially reduce these negative impacts on communities by giving them an active voice in every step of the development process, a domain they were previously excluded from. Community benefit tools are often employed with the philosophy that if public funds are going to incentivize businesses to develop, there should be concrete, measurable, and enforceable benefits redistributed to the residents from whom the funds come and whom the development may negatively impact.

What Forms Can Community Benefits Take?

Community benefits have three primary forms: Community Benefits Agreements, Community Benefits Ordinances, and Community Benefits Plans. All three benefit structures provide a community with the potential to create more inclusive and equitable development. However, they vary in enforceability and statutory framework.

A **Community Benefits Agreement (CBA)** is "a private contract between a land use developer and a coalition of community-based organizations, regarding a proposed development project" (United States Department of Energy [DOE], 2022). The push for community benefits can also come through a municipality through a **Community Benefits Ordinance (CBO)**, which conditions local developments to engage with the community to develop and commit to specific community benefits in order to receive public subsidies or tax abatements. The third type of community benefit takes the form of **Community Benefits Plans (CBP)**, which, unlike CBAs and some CBOs, are not legally binding and are better understood as an *intention* to redistribute benefits to or positively engage with a community (Butler, 2024). Where CBAs and CBOs are frequently focused on more localized projects, CBPs are often employed with federal projects with large impacts and investments (although any development can include a CBP).

Setting the Stage for the Community Benefit Movement

Recently the terminology of "community benefits" has been increasingly used, though the philosophy behind community benefits has existed in the federal regulatory environment for decades (Kalick, 2015; Bernanke, 2007; Theodos et al., 2021). The practice of incorporating an expectation of a "public good" in federal financial and other publicly supported private institutions has its roots in various legislative acts throughout the 20th century. For example, through Rev. Rul. 69-545 in 1969, hospitals were required to meet a “community benefit standard” in their community in order to be designated as a charitable and tax-exempt organization (Kalick, 2015). This was further developed under the Patient Protection and Affordable Care Act of 2010 with the introduction of required triannual Community Health Needs Assessments and an “implementation strategy” to meet the community’s needs (Kalick, 2015). This amendment under the Affordable Care Act supports community benefits that are informed and action-based, two important components to implementing community benefits correctly.

In the financial sector, the Community Reinvestment Act of 1977 (CRA) requires federally insured banking institutions to provide credit to support low-income and underrepresented minority urban communities to mitigate the negative effects of racist lending practices, inequitable access to credit information, and the “regulatory environment” at the time (Bernanke, 2007). As a condition of the CRA, in order to have deposits insured by the federal government, financial institutions must be meeting their community's credit needs. Prior to the adoption of the CRA, banks used redlining principles to discriminate against low-income residents and people of color from access to fair credit lending opportunities. The absence of equitable lending opportunities for marginalized groups resulted in public and congressional concern over the urban decay of cities. Similarly to the tax-exempt hospitals under Rev. Rul. 69- 545, these financial institutions receive benefits for their status, so the federal government conditions them to serve their communities and incentivize serving economically vulnerable populations (Bernanke, 2007).

Outside of the healthcare and banking sectors, one can also see the presence of community benefits-like policies in the U. S. Department of Commerce’s Economic

Development Administration (EDA). The EDA is part of a larger movement that began in the Great Depression era to promote economic activity in agricultural/rural areas. This developed into federal dollars going toward local governments for strategic planning grants (Theodos et al.,2021). This trend continued to develop into comprehensive regional plans and into the 1998 requirement of a Comprehensive Economic Development Strategy (CEDS) from an organization in order to be designated as an Economic Development District, which qualifies the organization for EDA funding (Theodos et al., 2021). CEDS are a community benefits-type of approach to prioritizing federal investments in a community in which the local government applicant must refer to a "plan for regional economic development [that] is created by area stakeholders, which can include local economic development and planning agencies, chambers of commerce, and nonprofit and private developers investing in regional development" (Theodos et al., 2021, p. 4). Economic Development Administration funding of a project is in part assessed on the proposed project's alignment with the regional economic development priorities established in the CEDS process. (Theodos et al., 2021).

These historic examples demonstrate a consistent expectation in U.S. policy in that public investments primarily targeted to private businesses are conditioned on the expectation that the public investment must create a public good. The conception that local communities' needs should be considered with the application of public funds is a long-standing practice in economic development sectors and is continued through the evolution of community benefit tools. While the needs of the community may have been considered in a development, community benefits offer a mechanism through which the specific benefits are negotiated and implemented.

Examples of Community Benefits

Community Benefits Agreements

The community benefits movement evolved from these previous public policy initiatives to community-based actions in the late 1990s and early 2000s with the use of Community Benefits Agreements (CBAs) in development of communities in Southern California. Community activists began to understand they could leverage their "selective support" to certain projects as a method of controlling development, opposed to simply protesting development altogether in their community (Rosen, 2023, p. 2). These community-based CBAs served as a way in which both the developer and the community could benefit from working together: the community pledges to publicly support the project in exchange for the developer committing to provide the benefits that the community highlights they would like to see coming out of the development. The first comprehensive Community Benefits Agreement was signed into effect with the development of the Los Angeles Staples Center in 2001 (Stephan, 2022, p. 285). This CBA began a larger trend in the region, with four subsequent CBAs taking place after the Staples Center in Southern California, including: 1) the NoHo Commons CBA, 2) the Marlton Square CBA, 3) the Hollywood and Vine CBA, and 4) the SunQuest CBA (PolicyLink, n.d.). This momentum spread across the country in the following years with there now being approximately twenty CBAs in effect (although, because they are privately negotiated contracts, it is difficult to pin down the precise number of operating agreements) (Stephan, 2022, p. 285). Some of the most notable CBAs negotiated since the Staples Center include the:

- $11 billion Los Angeles International Airport expansion project

  This Agreement was negotiated between the LAX Coalition for Economic, Educational, and Economic Justice and the Los Angeles World Airports. Benefits negotiated included job training funds, promoting women and minority-owned businesses, and a range of efforts to mitigate negative externalities such as sound and air pollution. The total value of agreed benefits amounted to $500 million, included diverse voices across the community, and embedded accountability measures within the agreement.

(Gross et al., 2005, p. 16)

- $1.8 billion Yankee Stadium project in New York;

  This Agreement was negotiated between elected officials and the team as a result of public outrage regarding the stadium expansion. The agreement notably included no community members or organizations as signees. The Agreement was to offer 25% of stadium jobs to local businesses and create a fund to award $40 million in grants to community organizations in exchange for $1.186 billion of public subsidies. This CBA has been widely criticized for failing to meet accountability standards for benefit distribution and for lacking community engagement.

(Hauser, 2017; Bagli, 2018)

- $321 million Consol Energy Center (now PPG Paints) hockey arena for the Pittsburgh Penguins;

  In 2008, the Pittsburgh Penguins received $64 million in public subsidies to develop a new stadium. In exchange for funding, the Penguins, along with representatives from various community organizations, reached the city's inaugural Community Benefits Agreement. This Agreement paved the way for the Consol Energy Center, the first hockey arena with a LEED Gold Standard certification. In return, the community gained a quality grocery store, a community center, a neighborhood partnership program, and job guarantees. This collaboration resulted in over $8 million in community reinvestment and fostered significant goodwill between the sports team and the city.

(Archambault, 2015).

- ~$325 million Nashville Soccer Club stadium

  The Nashville Soccer Club Stadium Agreement, in partnership with Stand Up Nashville (SUN), was the first CBA negotiated within the city. The Agreement between developers and community representatives negotiated a new childcare facility, artisan and small business commercial space, affordable housing on the development site that reflects the housing needs of the community. Additionally, a partnership with the National Soccer Foundation (NSF) has pledged a free afterschool program to teach children healthy habits and provide coaches/

> mentors. NHS will also host an annual soccer clinic with the Nashville team and donate extra equipment to Metro-area schools. SUN and NHS additionally required workforce development training for all construction employees.

(*Community Benefits Agreement*, 2018) (Rosen, 2023, p. 3)

CBA Case Study: Staples Center

Context:

The Staples Center (now known as the Crypto.com Arena) is an indoor sports and entertainment arena in downtown Los Angeles. The development of the Staples Center took place during the larger movement to promote more equitable development in Southern California in the early 2000s. The Staples Center Community Benefits Agreement was the first considerable CBA that "set the precedent for what is considered a good CBA" (PolicyLink, n.d.).

Partners:

Signed in 2001, a coalition of nine community organizations came together as signees along with nineteen other community contributors to negotiate benefits with the developers: L.A. Arena Land Company, and Flower Holdings, LLC. (*Cooperation Agreement*, 2001). The negotiations considered input from local religious centers, immigration resource centers, affordable housing advocates, and more (*Cooperation Agreement*, 2001).

Outcomes:

This CBA negotiated benefits including local hiring, wage thresholds and affordable housing along with local amenities such as parks and open spaces (PowerLink, n.d.). In exchange, the coalition of community organizations pledged to write a letter of support for the development project, commit to providing positive testimonies on request in favor of the project, and supported the project through the state's environmental review process (*Cooperation*

Agreement, 2001; Rosen, 2023, p. 2). Of the $2.8 billion development project, $390 million was comprised of public subsidies and tax abatements with $150 million put towards community benefits (Rosen, 2023, p. 2).

Key Observations:

The Staples Center CBA is considered to have set the precedent for other CBAs and is considered the first comprehensive CBA because it meets the requirements of accountability and enforceability necessary for an effective CBA. Experts of community benefits, Julian Gross and Jovanna Rosen, suggest these primary goals for each CBA, including: (1) meaningful negotiations between the stakeholders, (2) specific commitments from each party, and (3) establishing an enforceability structure to ensure accountability with meeting the goals, all of which the Staples Center implemented with this Agreement (Rosen, 2023; Action Tank et al., n.d.; *Cooperation Agreement*, 2001).

Community Benefits Ordinances

In the development process, there are three primary stakeholders: the developers, the local community members impacted by development, and the local government in which the development is built. Localities can incentivize development projects to build in their community by offering tax abatements and public subsidies. A large public investment may lead the government to be more involved in the negotiation process. As CBAs continued to gain in prominence and popularity in the last few decades, municipalities began to consider how requiring CBAs as a condition of development may be beneficial to their residents, especially those that live in zones allowing for large-scale development. Detroit was the first city to implement a Community Benefits Ordinance (CBO). The 2016 Detroit CBO is a legislative measure designed to ensure that large-scale development projects in Detroit provide tangible benefits to local communities (*Community Benefits Ordinance*, 2021).

Case Study: Detroit Community Benefits Ordinance

Context:

The push for a CBO emerged in 2013 when Detroit declared the largest national municipal bankruptcy with debts of over $18 million. This bankruptcy resulted in a sentiment from residents that the City should not be using its money to promote corporate interests, but rather should prioritize voices from the community. A state governor elected emergency manager was employed to resolve Detroit's financial issues. The emergency manager broadly imposed cuts and service reductions to city operations. However, at the same time, in excess of $250 million in public funds were spent to move forward a new hockey arena downtown and a new International Bridge was being planned, financed mainly by Canada, for the heavily disinvested Delray area, with minimal community input.

(Kravetz, 2024, p. 6) Reverend Joan Ross, the co- founder of the Equitable Detroit Coalition, was frustrated with Detroit's economic development actions and worked to garner support from other local activists for a grassroots CBO (Kravetz, 2024, p. 8).

The Detroit CBO was enacted by Detroit voters by local ballot measure in 2016, and later amended by Detroit City Council in 2021, in response to concerns about the impact of urban development on neighborhoods and the need for inclusive growth that supports existing residents. The ordinance mandates that developers of qualifying Tier 1 projects meaning those with public investment exceeding $1,000,000 coupled with project construction costs of over $75 million, engage with local community groups to negotiate benefits from a project, which is later included in the Development Agreement between the developers and the city (*Community Benefits Ordinance*, 2021). The City of Detroit's Planning and Development Department (PDD) is responsible for facilitating the public CBO process for each Tier 1 development and the Planning Director ultimately signs the resulting Community Benefits Agreement with the developer.

Since 2017, 15 projects, including all of Detroit's most significant developments, have participated in the Tier 1 CBO Process with those developers signing CBAs negotiated with the Neighborhood Advisory Council (NAC) and the City. The projects have included the Hudson's Site, Michigan Central Station, Fisher 21 Lofts, The District Detroit, and the Future of Health Hospital and Medical Research Campus – representing over $11B in new investment, ~55,000 estimated construction and permanent jobs, over 4,000 new housing units, and millions of square feet in new commercial and industrial space. Significantly the CBAs for these projects have committed to numerous and comprehensive community benefits supporting resident identified priorities in areas including, affordable housing, local hiring and workforce development, educational opportunities, quality of life, construction impacts, community investment, and others. Those commitments that can be quantified monetarily are estimated by the City to have a value of at least $700 million – although many of the benefits provided in kind do not have a monetary value assigned

An example of the Detroit CBO in action is the development and expansion of the Fiat Chrysler (now known as Stellantis) plants Plant on Detroit's east side. This development project triggered a Tier 1 community benefits requirement because the project incurred over $75 million in investments and received over a million dollars in tax abatements from the City. The City of Detroit and the Detroit Brownfield Redevelopment Authority (DBRA) supplied tax breaks and land to incentivize Stellantis' $2.5 billion total investment to expand and redevelop the former Fiat Chrysler Mack 1, Mack 2, and Jefferson Assembly plants.

Partners:

In 2019, Fiat Chrysler Automotive (FCA), and the City of Detroit Planning and Development Director signed the FCA Plant Expansion Community Benefit Agreement – with the support of the Neighborhood Advisory Council and ultimately approved by the Detroit City Council (Stellantis 4 Detroit, n.d). Residents of the neighborhoods surrounding the Stellantis Detroit Assembly Complex participated in the community engagement process to share their concerns for the development and ideas for possible benefits to be provided through the CBA.

Key Observations:

The CBA negotiation between the City of Detroit, Neighborhood Advisory Council (NAC), and Fiat Chrysler Automotive (FCA) resulted in $35.6 million of investments from Stellantis and the City of Detroit in local community improvements. The agreement includes collaboration with the City of Detroit agency, Detroit at Work, to provide hiring support and early application windows for Detroiters. The CBA also funds corporate training programs and workforce readiness training that simulate the shop floor environment. Additionally, the CBA includes educational provisions with Detroit Public Schools with the development of a facility for career and technical education (CTE) for adults and youth advanced manufacturing training. The negotiations also resulted in a Manufacturing Career Academy at Southeastern High School to expose students to in-demand manufacturing careers and a partnership with Wayne County Community College to create an associate degree for automotive manufacturing. Stellantis has also funded $1.8 million in home repair grants and $800,000 to support community projects within targeted neighborhoods. Stellantis plans to achieve sustainability goals through compliance of local, state, and federal environmental regulatory requirements (*Stellantis Community Benefits*, *2019*).

Outcomes:

Observations on the CBO's impact reveal a mixed reception. Proponents argue that it empowers communities and ensures more equitable development (Draughn Gargaro, 2023, pg. 231). Critics, however, point to challenges such as the enforceability of agreements and the effectiveness of community engagement processes (Draughn Gargaro, 2023, pg. 224). Overall, the CBO represents a significant step toward more inclusive urban development in Detroit, seeking to balance economic growth with community well-being.

Criticism of the Detroit CBO questions the effectiveness the ordinance’s process of direct engagement of residents with developers and the lack of agreement enforceability. All of the NAC members selected to participate in the community negotiation process are required to be residents of the project Impact Area, however, seven of the nine members are appointed by city officials (Draughn Gargaro, 2023, p. 246). The enforcement of the agreements resulting from the CBO process is the responsibility of the Enforcement Committee as defined in the ordinance with Detroit's Civil Rights, Inclusion, and Opportunity Department (CRIO) playing a leading role. CRIO is tasked with producing regular monitoring reports which track each development's progress in fulfilling each of their CBA commitments. CRIO also investigates and makes findings regarding complaints submitted by the community. If a development is deemed to be out of compliance with a commitment, CRIO will require developers to submit a compliance plan to get back in compliance. CRIO does not issue fines or injunctions when projects do not meet their CBA commitments, however, per the enforcement process defined in the ordinance, Detroit City Council retains the power to claw back or cancel project incentives (Brooker, 2022).

In the case of the Stellantis Plant Expansion, Stellantis has been in violation of air quality standards since the plant began operations. Michigan's Department of Environment, Great Lakes, and Energy (EGLE) has issued eight official air quality violation fines and instructions for how the plant must take action to prevent future violations (Draughn Gargaro, 2023, p. 220). The repeated violations and immediate negative impacts on air quality for surrounding residents are cause for concern regarding the environmental *injustice* implications of the project. Environmental justice concerns are even more pressing when considering the neighborhoods bordering the Stellantis Plant are 97% black with an above average rate of asthma diagnoses in the City of Detroit (Coppola, 2023). The adjacent neighborhoods are suing EGLE for failing to enforce state regulated air quality standards (Coppola, 2023). Due to numerous community complaints, the City's enforcement committee did take an active role in engaging with EGLE and highlighting the pollution concerns. These outcomes raise questions about the imbalance of bargaining power communities face when negotiating with large corporations, such as Stellantis. If CBOs cannot be enforced, the communities intended to be protected will remain at risk for further gentrification and inequitable economic development.

Case Study: Cleveland Community Benefits Ordinance

Context:

As a more recent example, in June of 2023, Cleveland passed its own Community Benefits Ordinance (CBO) with the mission of promoting more equitable economic development in Cleveland (City of Cleveland, 2024). The city designed a development process in which community input and engagement are central. This prioritization of the community is exemplified in their commitment to community benefits, whereby the city and developers must receive approval of community benefits and project incentives before development begins. The approval process involves city representatives presenting both the incentive package and the associated community benefits to the Cleveland Citywide Development Corporation (CCDC), which is a nonprofit advisory board tasked to assist the city with real-estate deals, as well as the Cleveland City Council for legislative approval.

Key Observations:

The ordinance triggers a Standard Community Benefits Agreement (CBA) when a project is set to receive public financial support exceeding $250,000 with a total project cost of <u>under</u> $20 million. The standard CBA requires developers to establish a plan meeting Minority Business Enterprise (MBE), Female Business Enterprise (FBE), and Cleveland Small Business (CSB) participation goals. The development must utilize subcontractors that satisfy the participation goals of 15% for MBEs, 7% for FBEs, and 8% for CSBs. Additionally, the developer must create or participate in Cleveland's Mentor-Protégé program whereby developers

Thank you to Aaron Goodman for his feedback and comments on the Detroit CBO Case Study.

(mentors) provide support to MBEs, FBEs, and CSBs (protégés) in improving their management and technical capabilities. The goal is to provide and promote relationships between larger firms (the developers) and smaller firms (MBE, FBE, CSBs), expanding the scope of a smaller firm's (protégé's) services (City of Cleveland, 2024).

The developer must also commit to employing Cleveland residents for 20% of the total construction work hours (as defined by the Fannie M. Lewis Resident Employment Law) with at least 4% of the total resident construction work hours going to low-income residents. Further, developers should provide paid internship opportunities for high school students, adult Cleveland residents, and City of Cleveland community college students for $20 an hour for no less than 20 hours of work as well as participating in a registered apprenticeship program. The developer should also give first consideration to job applicants referred by OhioMeansJobs/Cleveland- Cuyahoga County provided they meet the necessary qualifications for the position.

Developers must meet with the community during the design phase, the construction phase, and the post-project phase. They are required to meet at least three times with community stakeholders in cooperation with a community development representative/corporation to gain valuable community input on the project. Following the completion of a project, developers provide quarterly subcontractor and workforce reports to the city's Office of Equal Opportunity (OEO). They must provide quarterly community benefit reports regarding the status of each community benefit.

Any project set to receive $250,000 in public financial support with a total cost of over $20 million must enter into an Expanded Community Benefits Agreement. An Expanded CBA encompasses the standard CBA requirements and additional community benefits. Although the ordinance presents some development-specific suggestions, there is considerable flexibility around what "additional community benefits" are.

For instance, there could be additional requirements around MBE, FBE, and CSB involvement and partnership with the developer. An expanded CBA could also deal with neighborhood infrastructure issues such as road maintenance, parks and green space cultivation, or blight removal. Similarly, larger development projects could provide affordable housing units in conjunction with the development or commit to using public utility companies as the preferred providers. Other additional benefits could include Project Labor Agreements or work programs for formerly incarcerated people and at-risk youth. "Additional" benefits are not specifically defined, allowing developers to work with communities to best meet their needs as they relate to the development project (City of Cleveland, 2024).

Community Benefits Plans

The structure of community benefits has not been restricted to only private negotiations and local ordinances. The Biden administration has incorporated community benefits into its Justice40 initiative and in multiple pieces of federal legislation. Executive Act No. 14008 included a component named the Justice40 Initiative in which the president ordered that 40% of certain federal investments should be going into benefiting disadvantaged communities. These investments were focused specifically on "clean energy and energy efficiency, clean transit; affordable and sustainable housing; training and workforce development; the remediation and reduction of legacy pollution; and the development of critical clean water infrastructure" (Executive Order No. 14008).

In order to assist with compliance, the White House Council on Environmental Quality has provided a Climate and Economic Justice Screening Tool for identifying disadvantaged communities (Council of Environmental Quality, 2021). In addition to Justice40, community benefits language is found in the Inflation Reduction Act (IRA) and the Bipartisan Infrastructure Law (BIL), specifically regarding grant selection and evaluation. In reference to funding opportunities, the IRA states the grantee must have, "entered or will enter into a community benefits agreement with representatives of the community" (Inflation Reduction Act, 2022). This is enabled by the 2021 BIL language with requirements for community benefits offered as templates provided by the federal granting institution. The BIL states, "In awarding grants to eligible entities under the program, the Secretary shall give priority to an eligible entity--(1) proposing to carry out an activity or project in a low-income community or a disadvantaged community; (2) that has entered into a community benefits agreement with representatives of the community" (Bipartisan Infrastructure Act, 2021). The prevalence of community benefits in these recent legislative acts demonstrates the potential of community benefits and a federal commitment to serving historically underserved and disadvantaged communities nationwide.

These recently adopted federal programs that invest significant public resources to advance innovative technology hubs or green infrastructure also incorporate considerations of broader community benefits. In the DOE's interpretation of the community benefits language in the BIL and IRA, a CBA is a *component* of a CBP, but not necessary to be selected for a grant. They encourage it, however, as it bolsters the Plan's enforceability and represents negotiated benefits rather than just the intention of community engagement. This indicates that when approaching a development project, a CBA is stronger than a CBP and is the most efficient method of deploying community benefits in a development project (Clean Energy Infrastructure, n.d.).

Community Benefits Plans in the Federal Context

With these federal programs' implementation, clean energy transitions funded by the BIL and IRA require consideration of community benefits in their projects. The nature and scope of community benefit planning in the federal government is now an evolving system. The Department of Energy's Office of Clean Energy Infrastructure (OCEI) has led the community benefits initiative in the federal government by organizing their grant selection and evaluation process to include explicit consideration of Community Benefits Plans. The Department of Energy funds place-based investments and as such, their funding contributes to both the risks and potential benefits that new development in a community could bring (DOE, 2024a). By implementing the Community Benefits Plans, the DOE can "reduce any of those risks of implementation and maximize the benefits to affected stakeholders...in a way that is broadly shared" (DOE, 2024a). In advancing community benefit planning in federal DOE projects, the Department is taking a lead role nationally in developing institutional guidelines for CBPs.

The DOE has scored a potential grantee's CBP at 20% of their grant's total scoring consideration. Within this twenty percent, the Community Benefits Plan is comprised of and scored on four sections: Community and Labor Engagement; Diversity, Equity, Inclusion, and Accessibility; Justice40; and Job Quality and Workforce Continuity. Part of the Community and Labor Engagement section contains the recommendation for also including a legally binding agreement as part of the plan; this agreement could be in the form of a "Community Benefits Agreements, good neighbor agreements, community workforce agreements, [or] project labor agreements" in addition to other options (DOE, 2024a).

The DOE CBPs are integrated into most of the federal grant commitments DOE is proposing to award and are contractually obligated (DOE, 2024a). DOE promotes this contractual obligation rather than simple intentions of community engagement as they believe "legal enforceability is a key tool for accountability" (DOE, 2024a). To increase transparency and accountability, the DOE has committed to posting the CBPs for chosen projects on their website along with regularly overseeing the projects to ensure that the benefits are reaching the community. In addition to this regular oversight, the DOE is also requiring funding recipients to provide a "Community Benefits Outcomes and Objectives" summary document that is publicly available and "contains the high-level commitments, general timeframes, and SMART (specific, measurable, achievable, relevant and time-bound) milestones" to continue promoting more transparent development (DOE, 2024b). More information regarding the DOE's Community Benefits Plans: here.

Findings

- Community benefits may hold great potential for mitigating harm to vulnerable populations in large-scale development, if executed properly. However, they should not be the only strategy that must be considered for addressing the problems these development projects also *bring* to local communities. Other strategies could include the Affordable Care Act's community benefits requirements.
- Inherent power imbalances in community/developer negotiations are likely making privatizing community benefits in agreements difficult. As such, community benefit approaches and related activities should be considered a "piece in the puzzle of equitable development" or a "necessary but not sufficient condition" to reducing the risk to neighborhoods in which a proposed development is to take place (Stephen, 2022, p. 282; Rosen, 2023, p. 6).
- Some of the key elements to successful development and implementation of

community benefits are:

- Prioritize the involvement of local voices in negotiations.
- Support an equitable balance in the negotiation process between communities and developers,
- Negotiate community benefits that are measurable and enforceable and;
- Create and implement long-term accountability mechanisms that monitor progress and the distribution of benefits to both the community and the private sector partners.

With these points considered, community benefits can contribute to more equitable development.

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