
INFRASTRUCTURE INVESTMENT INCENTIVE PROGRAM “I-CUBED”

An Innovative New Financing Tool to Support Job Growth in the
Commonwealth

Patrick-Murray Administration

September 2008

I-CUBED: A NEW PROGRAM TO CREATE NEW JOBS

- The Patrick-Murray Administration is publishing draft regulations to implement a new financing program to support job growth and economic development in the Commonwealth
- This new program, known as the Infrastructure Investment Incentive Program or I-Cubed, will finance significant new public infrastructure improvements necessary to support major new private development
- The public infrastructure investments will be financed through an innovative cost and risk sharing arrangement among the Commonwealth, the Municipality and the private developer
- The new private development will result in new jobs and tax revenue for the Commonwealth and in increased commercial property values and real estate tax revenue for the Municipality

HISTORY OF I-CUBED

- Mayor Menino first proposed the concept of I-Cubed at a Chamber of Commerce speech in December 2005
- The Legislature passed legislation in 2006 authorizing a total investment of up to \$200 million for up to 5 projects
- The substance and passage of the 2006 legislation was technically flawed and could not be implemented as enacted
- The Patrick-Murray Administration and the Legislature worked together on a bill to address the technical flaws and to otherwise improve the original legislation
- On June 12, 2008, Governor Patrick signed the amended I-Cubed legislation into law authorizing a total investment of up to \$250 million for an unspecified number of economic development projects

STATUS OF I-CUBED

- The I-Cubed legislation grants the Secretary of Administration and Finance and the Commissioner of Revenue the power to promulgate regulations or guidance with respect to the implementation of the program
- On September 24, 2008, the Secretary and the Commissioner published draft regulations and guidance, respectively, for the I-Cubed program
- The regulations and guidance will be posted in draft form for a 21-day period to solicit public comment and will be published in final form promptly after such 21-day period
- Once the regulations and guidance are final, private developers will be able to submit applications for funding

I-CUBED: BASIC FACTS ABOUT THE PROGRAM

- The legislation authorizes up to \$250 million to be invested in public infrastructure improvements to support certified economic development projects
- An economic development project must be approved by the related Municipality, the Secretary of Administration and Finance and MassDevelopment in order to be a “certified” project eligible for funding
- The public infrastructure improvements for a certified economic development project will be financed with bonds issued by MassDevelopment
- The debt service on the MassDevelopment bonds will be payable from Commonwealth contract assistance payments secured by a general obligation pledge of the Commonwealth

I-CUBED: BASIC FACTS ABOUT THE PROGRAM (continued)

- During construction of the project, the Municipality will levy assessments on the developer's property within the economic development district to reimburse the Commonwealth for the debt service cost
- Once a commercial component of a certified economic development project is occupied and generating new state tax revenue, the debt service on the bonds related to that commercial component will be payable by the Commonwealth
- If the new state tax revenues are insufficient to cover the related debt service on the bonds, the Municipality will be required to reimburse the Commonwealth for the amount of the shortfall
- The developer may agree to allow the Municipality to assess the property to reimburse it for the amount of any shortfall payment it makes to the Commonwealth

CRITERIA FOR PROJECT APPROVAL

- The Secretary must find that the economic development project would not happen or would not achieve the contemplated level of development, jobs or other economic activity without the public infrastructure improvements financed under I-Cubed
- The cost of the public infrastructure improvements financed under I-Cubed may not exceed \$50 million and may not be less than \$10 million
- The projected annual new state tax revenues from each occupied project component must be at least 1.5 times greater than the projected annual debt service on the related bonds (construction-related state tax revenues may be taken into account for purposes of meeting coverage in excess of 1 times debt service)

CRITERIA FOR PROJECT APPROVAL

(continued)

- Not more than one other economic development project in the municipality may have been approved for financing under I-Cubed
- The economic development project must be financially feasible and the developer must demonstrate sufficient resources or financing commitments to carry out the project
- The economic development project must be consistent with sustainable development principles
- The project may not receive public assistance under certain programs (i.e., tax increment financing (unless the designation as a TIF zone was before January 1, 2009), tax credit awarded for an economic development incentive program, a community development action grant, a public works economic development program grant), and the Developer may not apply for any other assistance from the Commonwealth for infrastructure improvements in the economic development district after the effective date of the regulations

PRIORITIES FOR PROJECT APPROVAL

- At least \$50 million of the \$250 million authorization must be used for projects in economically distressed municipalities (i.e., municipalities with either an unemployment rate of at least 1.5 per cent higher than the statewide average or in which the median income is 80% or less than the state median income)
- In any case, the highest priority will be given to projects in economically distressed municipalities that meet both the unemployment rate and median income level criteria
- Second highest priority will be given to projects in economically distressed municipalities that meet either the unemployment rate or the median income criteria
- Otherwise, preference will be given to projects located in growth districts or that commit to obtaining LEED Silver certification

PROCESS FOR PROJECT APPROVAL

- The regulations require that developers obtain a preliminary approval of the Secretary before seeking final approval of the economic development project by the Municipality and the Secretary
- This preliminary approval process is intended to ensure that all parties involved in financing the project participate in a diligent review of the developer's proposal and come to a common understanding of the project and the anticipated new state tax revenues it will generate
- This process will include an independent feasibility analysis of the developer's proposal and of the new state tax revenues likely to result from the proposal
- The Commissioner of Revenue will provide a preliminary estimate of new state tax revenues and MassDevelopment will provide a preliminary estimate of the sufficiency of such revenues to cover the debt service on the related bonds
- The Secretary will provide a preliminary approval letter in appropriate cases

PROCESS FOR PROJECT APPROVAL (continued)

- After receiving a preliminary approval letter from the Secretary, the developer will apply to the Municipality for approval
- After receiving approval of the Municipality, the developer and the Municipality will apply to the Secretary and MassDevelopment for approval
- The Secretary will obtain an update of the independent feasibility analysis and the Commissioner and Agency will provide updated certificates of estimated new state tax revenues and of sufficiency to cover debt service
- The Secretary will certify projects receiving her final approval as certified economic development projects
- A project may be approved by the Secretary in phases

INFRASTRUCTURE DEVELOPMENT ASSISTANCE AGREEMENT

- Prior to issuing bonds to finance public infrastructure improvements for a certified economic development project, the developer, the Municipality, MassDevelopment and the Commonwealth shall enter into an infrastructure development assistance agreement
- The agreement shall set forth the terms of the financing and construction of the public infrastructure improvements, including:
 - The developer's responsibility for constructing the public infrastructure improvements; utilizing a competitive procurement process for selection of the contractor; complying with certain employment laws and anti-discrimination provisions; and conveying the completed public infrastructure improvements to the Municipality or other public entity

INFRASTRUCTURE DEVELOPMENT ASSISTANCE AGREEMENT (continued)

- The Commonwealth’s and Municipality’s right to review and approve the plans for the public infrastructure improvements and to inspect and monitor the construction thereof, including the right to approve requisitions for bond proceeds to pay costs of the improvements
- The Commonwealth’s obligation to pay MassDevelopment to cover debt service costs on the bonds, and the timing and circumstances under which the Municipality is required to assess the developer’s property to reimburse the Commonwealth for such costs or to pay the Commonwealth to cover any portion of such costs not covered by new state tax revenues

INFRASTRUCTURE DEVELOPMENT ASSISTANCE AGREEMENT (continued)

- The Municipality’s obligation to establish and fund or provide for a municipal liquidity reserve for each project component equal to two times the related maximum annual debt service on the bonds and the Commonwealth’s right to draw on the reserve in the event new state tax revenues are insufficient to cover debt service costs on the related bonds
- The Municipality’s obligation to annually collect data required by the Commissioner of Revenue from the owners of the property within the economic development district to inform the Commissioner’s annual certification of new state tax revenues

LEVERAGING NEW STATE TAX REVENUES

- The concept behind this innovative financing program is that the new state tax revenues generated from the economic development project will cover the costs of the public infrastructure improvements needed to support the project
- Because the Commonwealth's financial commitment to a project is limited to new state tax revenues generated from the project, the Administration will treat such project financings as outside of its annual borrowing limit or "bond cap" for the regular state capital investment program
- In limited circumstances where there is compelling evidence that jobs would be relocated out of state without the project, the related retained state tax revenue will be counted as if it were new for purposes of evaluating an I-Cubed financing proposal

STATE TAX REVENUES COUNTED

- The general categories of state tax revenues taken into account for purposes of the I-Cubed program include the following:
 - Personal income taxes on wages and partnership distributions
 - Sales taxes on the sale of tangible personal property (excluding the portion of the sales tax statutorily dedicated to the Massachusetts Bay Transportation Authority and the Massachusetts School Buildings Authority and, unless otherwise agreed to by the Secretary and the Massachusetts Convention Center Authority, any sales tax statutorily dedicated to the Convention Center Fund)
 - Hotel/motel room occupancy excise taxes (excluding any hotel/motel taxes statutorily dedicated to the Convention Center Fund and to the Massachusetts Tourism Fund)

STATE TAX REVENUES NOT COUNTED

- Because the I-Cubed program is predicated on tax-increment financing, it is critical that the Commonwealth have a high level of comfort that the economic development project will generate state tax revenues that are truly new for the state or that would be lost to the state if not for the project
- As a result, the Commissioner of Revenue will not treat the following state tax revenues as new for purposes of evaluating I-Cubed financing proposals:
 - Replaced State Tax Revenues – new state tax revenues that replace lost state tax revenues from businesses that were in the economic development district and eliminated as a result of the economic development project
 - Relocated State Tax Revenues – existing state tax revenues from businesses that relocate from another part of the Commonwealth to the economic development district (unless there is compelling evidence the business would have otherwise relocated out of state)
 - Displaced State Tax Revenues – state tax revenues from new or expanded businesses in the economic development district that displace existing state tax revenues from other similar businesses within the state

DISPLACEMENT FACTORS

- The Commissioner of Revenue will determine the appropriate displacement factors for purposes of estimating the extent to which state tax revenues from the economic development project displace existing state tax revenues from other similar businesses within the state
- Displacement shall be estimated based on an evaluation of the extent to which state tax revenues are generated from new industry output in an economic development district that is produced for sales outside of the state or for demand in the state not previously met by businesses within the state
- The Commissioner's determination of displacement factors will be based on the facts and circumstances of each particular project, and the Commissioner may rely on the analysis of the independent feasibility consultant or on other models or methods that the Commissioner deems appropriate

JOB GROWTH AND MUNICIPAL PARTNERSHIP

- The Patrick-Murray Administration views this innovative financing program as a significant new tool for growing jobs in the Commonwealth and for growing desperately needed state and municipal tax revenues
- The Administration intends to target necessary resources to manage and implement this program to ensure that it is a success
- The Administration will work in partnership with municipalities with proposed economic development districts to ensure that there is a common understanding of the benefits and risks of a proposed economic development project and agreement about whether to approve projects for I-Cubed financing