Community Benefits Agreements: Application in the Energy Transition

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Law Office of Julian Gross

COMMUNITY BENEFITS AGREEMENTS: DEFINITION

"Classic" CBA:

A *legally-binding private contract* between a land use developer and a coalition of community-based organizations, regarding a proposed project.

- *Developer's commitment:* the project will provide specified community benefits, if the project is approved
- *Coalition commitment:* Support of project approval; release of claims

Most common with **large, publicly-subsidized urban development projects**:

- engaged stakeholders
- blue-state local governmental decisionmakers
- challenging urban development context

Community Benefits Agreements: Values

Primary Values:

- Legally enforceable
- Heavily shaped by representatives of affected communities
- Emphasis on community benefits that
  - benefit the public;
  - are focused locally; and
  - go beyond benefits intrinsic to the project itself
- Aimed towards *support of project development*

Alternatives to Classic CBAs

- Agreement Between Local Public Entity and Developer
  - Development agreements, leases, etc.
  - Clean energy example – offshore wind: *Host Community Agreements*
- Community Benefits Requirements of Grants/Funding
  - Clean energy example – USDOE battery supply chain Funding Opportunity Agreement
- "Public CBA": Contract Between Community-based Organizations and a Public Entity

NOTE: All of these approaches may reflect the primary values of a Classic CBA: legal enforceability; participation by affected communities; local benefits

BOEM Community Benefits Agreement requirements

BOEM Pacific Wind Lease Sale 1 (2022)

- bidding auction for California offshore wind area leases
- bidders can claim credits toward the price they're offering by committing to two kinds of CBA efforts:

Lease Area Use CBA credit: allows a bidder to receive a credit of five percent of its cash bid in exchange for:

an existing CBA or a commitment to enter into a new CBA with one or more communities, stakeholder groups, or Tribal entities whose ***use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space,*** *is expected to be impacted by the Lessee's potential offshore wind development…*

BOEM Community Benefits Agreement requirements

General CBA credit: allows a bidder to receive a credit of five percent of its cash bid in exchange for:

> *an existing CBA or a commitment to enter into a new CBA with one or more communities, Tribes, or stakeholder groups that are expected to be affected by the* ***potential impacts on the marine, coastal, and/or human environment (such as impacts on visual or cultural resources) from activities resulting from lease development*** *that are not otherwise addressed by the Lease Area Use CBA…*

CHALLENGES OF CBA APPLICATION IN CLEAN ENERGY CONTEXT

- Many different kinds of major projects:
  - generation infrastructure (*e.g.* turbines)
  - transmission distribution infrastructure
  - supportive infrastructure (*e.g*. port/harbor development)

- Many different affected communities
  - onshore vs. offshore
  - localized v dispersed (e.g. transmission lines)

- Broad public benefits combined with potentially heavy local impacts

- Many clean energy projects will occur in areas needing economic investment.

Q&A and Conclusion

Thank you!

Law Office of Julian Gross
www.juliangross.net
julian@juliangross.net
(415) 602-2395