

CBA



Community Benefits Agreements A Potential Negotiating Tool for Rural Communities

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Community Benefits Agreements: A Potential Negotiating Tool for Rural Communities

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Mountain Association for Community Economic Development

The Mountain Association for Community Economic Development (MACED) is a 40-year-old non-profit organization promoting sustainable development in eastern Kentucky and Central Appalachia. MACED works to create economic opportunity, strengthen democracy and support the sustainable use of natural resources. The organization employs three major strategies toward these goals: providing financial capital and expertise to individuals, businesses and communities; conducting research to support good public policy; and demonstrating effective community economic development efforts that make a difference. Visit MACED on the web at www.maced.org.

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Introduction

As plans for a federal prison in Letcher County, Kentucky began to progress in June 2016, the Mountain Association for Community Economic Development (MACED), a long-standing community partner in the region, started to seriously consider the economic impacts of such a project on the surrounding rural community.


Since planning for the federal prison began more than ten years ago, advocates have promoted the prison as a source of secure, good-paying jobs in an area where unemployment currently sits at 12 percent.¹ There are job opportunities that may come from sourcing labor and materials during the prison construction process, as well as potential vending contracts following the prison's completion. More concretely, day-to-day prison operations would require a permanent staff of approximately 300, according to the Environmental Impact Study (EIS) required by the Bureau of Prisons (BOP).² The EIS also anticipates, however, that a portion of those 300 federal jobs would be filled by existing BOP employees transferring into the area from elsewhere. Beyond that, the average commute of a BOP employee is 100–150 miles, revealing that hiring people who both live and work in Letcher County would not be guaranteed.

Other questions of economic benefits lingered as well, including what kind of impact the prison could have on the surrounding community's infrastructure, if contractors would be able to meet federal protocols for doing business, and if local workers would match BOP hiring qualifications. As an example, the federal correctional hiring process is selective by age, "sound health and physical fitness," extensive background checks, education and experience.³ These criteria, among others, would inevitably limit the pool of local applicants.

With these concerns in mind, MACED began to consider what tools could support Letcher County residents in securing any economic benefit gained from the prison for the local population, and in mitigating potential negative impacts of a large-scale prison in the county. Looking at the national landscape, MACED recognized Community Benefits Agreements (CBAs) as a tool that community organizations were effectively using to address similar concerns, but in a very different context. Most all models of successful CBAs are in urban areas and address large-scale private development.

Considering first the rural context of Letcher County and, secondly, the public nature of the proposed development project, MACED initiated research to answer the following questions:

- What exactly are the parameters of a CBA?
- What inputs are needed to make CBAs successful?
- Are CBA applicable to federal projects or to rural areas?



While the work originated with Letcher County in mind, the resulting research has applicability for any community considering a CBA, particularly those who don't see their context reflected in the visible CBA models. What follows serves as an introduction to CBAs and provides further resources for communities who may be interested in pursuing such a structure. Moreover, the research considers the application of a CBA in a rural area — its potential benefits and challenges in that context — and calls for more CBA resources that are tailored to rural communities.

Sources that informed this work included contacts in Letcher County, government documents and testimonies, local and national news articles, research and case studies surrounding CBAs, and contacts across the country who have been involved in organizing successful CBAs.

What Are the Parameters of a CBA?

The Partnership for Working Families is a national organization at the forefront of the CBA movement. They work as a network to “organize, negotiate, and implement precedent-setting community benefits agreements on projects around the country.”⁴

In their work over the last decade and a half, they have come to define a CBA specifically as: “a legally binding contract (or set of related contracts) setting forth a range of community benefits regarding a development project, and resulting from substantial community involvement.”⁵ To qualify as a CBA by the Partnership’s criteria, the final agreement must be an enforceable contract between a community coalition and the developer. Sometimes, CBA negotiations do not end in such an arrangement, but instead end with community benefits that are contracted between the developer and the city or development district — these benefits are contractual but not enforceable by the community coalition.

CBAs are most commonly found in urban areas, usually in low-income communities where private developers move in to reshape the existing landscape. One establishing CBA was developed in response to the planned LAX airport expansion in Los Angeles, California in 2004. A coalition that included labor unions and community groups reached a CBA agreement with the private developer Los Angeles World Airports. The CBA outlined the following legally-binding agreements with the community:

- Funds for soundproofing surrounding schools and residences, and funds for studies that examine the health impacts of airport operations on the surrounding community
- Locally targeted hiring that gives job priority to local residents
- \$15 million in funds for aviation-field and airport job trainings

Some other benefits from CBAs across the country include guaranteed living wages, environmental mitigation actions, labor agreements for the construction of projects, funds for neighborhood improvement, funds for arts programming in schools, and affordable housing requirements.⁶ The [Partnership for Working Families](#) website provides more details about existing CBAs and their legally binding benefits.

What Inputs Are Needed to Make CBAs Successful?

Carmen Rhodes, former executive director of Colorado-based FRESC, highlights three important inputs to ensuring a successful CBA: organizing, research and visibility.⁷

Organizing a Broad Community Coalition

What is absolutely essential to any CBA — and the most important factor in gauging potential success — is organizing a broad coalition of community members. As civil rights attorney Julian Gross writes:

Only a broadly inclusive coalition, composed of organizations whose views carry some weight with the governmental decision makers, is likely to have any success persuading a developer to negotiate with it. Elected officials presumably are unlikely to care about the views of the unrepresentative, self-interested organizations. A CBA coalition has every incentive to bring in as many community interests as possible, again in order to build leverage.⁸

Such coalitions can involve community-based organizations, trade unions, faith-based organizations, individual community members and, eventually, elected leaders. It's not necessary to agree on everything, but it is essential that all groups desire to work to contractually ensure benefits for the local community. Furthermore, working towards a CBA coalition is a kind of middle ground: groups concede to the reality that the project will happen, but find leverage points for negotiating benefits backed by the power of a wide base of concerned citizens.

It's important, Rhodes says, for coalition groups to remain as transparent as possible at all times, particularly about the fact that all desired benefits will not make it through the negotiations process.

Research: Where's the Leverage?

Research examining possible problems that the proposed development project will create, and how a CBA will offer solutions to these problems, is imperative in the CBA process, as it informs and empowers coalition action. Research will also reveal leverage points that are needed to apply pressure on the developer to enter into a CBA, or a similar agreement. Those involved in the national CBA movement would be good resources for helping a coalition identify leverage points.

Becoming Visible to Elected Officials

Another pivotal step in an effective CBA process is showing up as a coalition to lobby local elected officials and development boards. These voices could provide the weight needed for such an agreement to succeed with the developers or public entities.

In addition to these needed inputs to a CBA, it's important to be aware that, in addition to high levels of commitment, time and perseverance, legal assistance is also needed during the negotiation process, if not much sooner.

Learning More about CBAs

The Partnership for Working Families provides a helpful [interactive website](#) for better understanding CBAs from beginning to end. The website features interviews with many prominent figures in the CBA movement. Though these interviews have informed this research memo, the breadth of this collected knowledge cannot be replicated here. Visit the website to learn more about the steps of developing a CBA, and how coalitions across the country have addressed issues that are common to this work.



Source: *The Partnership for Working Families*

Are CBAs applicable to federal projects, or to rural areas?

As noted earlier, the most visible examples of CBAs are in urban areas and address very large-scale, private development projects such as airport expansions, sports stadiums and medical campuses. Thus, at first glance, CBAs may seem to have little applicability to a federal project in a rural area, like the proposed Letcher County federal prison project. Imagining a CBA in such an instance raises two questions:

1. Are CBAs applicable to federal projects?
2. Are CBAs utilized by rural communities?

According to CBA consultant John Goldstein, there is some precedent of CBAs involving agencies within the federal government, including the Department of Housing and Urban Development (HUD) and the Department of Transportation (DOT).⁹ Both research and national CBA contacts could not identify a CBA struck specifically with the Bureau of Prisons, though contacts thought it could be possible. Any CBA addressing a federal project would require an understanding of the unique legal parameters under which federal agencies already operate, which can define their ability to negotiate. Overall, CBA documents involving federal projects are not easy to access and thus interested communities would need to contact national CBA resources for more information.

Rural CBAs are also notably missing from the national conversation; perhaps this has to do with how CBAs necessarily take a different shape in rural areas where the population base is smaller and more dispersed, and there may not be as many partner organizations to support such work. Two examples of how CBAs have emerged in rural areas come from the state of Maine, where CBAs appear to be working in two different contexts — wind farms and capital investment.

Wind Farms

Maine state law requires a Community Benefits Agreement between developers of expedited wind energy developments and the impacted host communities. These CBAs negotiate “payments by the developer to the host community to be utilized for public purposes.”¹⁰ These purposes can include reduction of energy costs, tourism promotion, land and natural resource conservation, property tax reductions or economic development projects. There are several enacted CBAs as a result of this state legislation.

Capital Investment

Coastal Enterprises, Inc. (CEI), a Community Development Financial Institute in Maine, incentivizes economic development in underserved areas through New Market Tax Credit (NMTC) projects. As a part of these projects, CEI requires NMTC recipients to participate in a CBA, thus helping to “ensure that investment dollars address secondary economic development goals for positive, sustainable impact.”¹¹ One example of how these CBAs are enacted can be found in the town of Rockland, Maine where, as part of a NMTC project related to infrastructure improvements, the Farnsworth Art Museum agreed to a CBA that protects and funds the museum’s educational program for surrounding public schools.

Maine highlights ways that rural areas have utilized the CBA structure. It also shows how they differ from more traditional urban CBAs because they come from an enforcing entity rather than from a community coalition. This means they may not fit the official CBA definition. This, however, does not diminish their importance, but instead highlights how rural contexts may require thinking differently about how to organize and enact a CBA. In the future, more accessible CBA resources for rural communities — ones that reflect how CBAs are being enacted in rural areas and that speak to the specific challenges and opportunities of the rural context — need to be added to the larger national conversation about community benefit agreements.

Conclusion

A Community Benefits Agreement provides a potentially empowering framework for communities who are facing large-scale development in their communities, such as industrial parks, federal projects, regional medical centers or natural resource extraction projects. In strapped rural communities, CBAs could provide meaningful and enriching benefits: investing in a permanent community fund, prioritizing local workforce hiring, enriching community assets, or mitigating environmental impacts.

The question that remains to be more fully answered is how rural communities — with more dispersed, smaller population bases and often limited local resources — can adopt and implement the urban-born CBA into their rural context. While work in Maine provides some idea of how rural CBAs might look, this research makes a call to organizations working on CBAs at the national level for more visible and accessible resources about CBAs in rural contexts.

In the meantime, there are many willing partners around the nation who can serve as resources for rural communities considering CBA arrangements.

Additional Resources

The Partnership for Working Families provides bountiful resources for learning more about CBAs, and a national network that can offer active support for communities interested in pursuing them.

Julian Gross, Attorney, [Law Office of Julian Gross](http://www.lawofficeofjuliangross.net), julian@juliangross.net. Gross has negotiated seminal CBA agreements.

John Goldstein, CBA consultant and former director of the Partnership for Working Families, john.goldstein51@gmail.com.

Harper Bishop, Economic and Climate Coordinator, [Open Buffalo](http://www.openbuffalo.org). Bishop has worked in the Buffalo community on the organizing work surrounding CBAs.

James Mumm, Managing Director for [People's Action](http://www.peoplesaction.org), New York City, j.mumm@peoplesaction.org. Mumm worked with the Northwest Bronx Community and Clergy Coalition for a portion of its drawn-out, yet successful, effort for the first binding CBA in New York City.

Endnotes

- ¹ Bureau of Labor Statistics, "Local Area Unemployment Statistics Map: Kentucky," U.S. Department of Labor, June 2016, <http://data.bls.gov/map/MapToolServlet>.
- ² US Department of Justice, Federal Bureau of Prisons, Capacity Planning and Construction Branch. Revised Final Environmental Impact Statement for Proposed United States Penitentiary and Federal Prison Camp, Letcher County, March 2016, <https://cdxnodengn.epa.gov/cdx-enepa-II/public/action/eis/details;jsessionid=4A134D1DA926F4D86B220F39EE794783?downloadAttachment=&attachmentId=206092>.
- ³ USAJOBS, "Correctional Officer," <https://www.usajobs.gov/GetJob/ViewDetails/432395800>.
- ⁴ Partnership for Working Families "Community Benefits," <http://www.forworkingfamilies.org/campaigns/CBA>.
- ⁵ Julian Gross, "Community Benefits Agreements: Definitions, Values, and Legal Enforceability," Journal of Affordable Housing, 17:1-2, 2008 (38) http://www.forworkingfamilies.org/sites/pwf/files/publications/CBAs_Definitions_Gross_2008.pdf.
- ⁶ Partnership for Working Families, "Policy & Tools: Community Benefits Agreements and Policies in Effect," <http://www.forworkingfamilies.org/page/policy-tools-community-benefits-agreements-and-policies-effect>.
- ⁷ Carmen Rhodes, "Achieving Power & Visibility," Partnership for Working Families, http://www.forworkingfamilies.org/sites/pwf/ASK/power_visibility.html.
- ⁸ Julian Gross, "Community Benefits Agreements: Definitions, Values, and Legal Enforceability," Journal of Affordable Housing, 17:1-2, 2008 (38), http://www.forworkingfamilies.org/sites/pwf/files/publications/CBAs_Definitions_Gross_2008.pdf.
- ⁹ Interview with John Goldstein, CBA consultant, July 2016.
- ¹⁰ Maine P.L. 209, ch. 642. https://legislature.maine.gov/ros/LOM/LOM124th/124R2/PUBLIC642_ptA.asp.
- ¹¹ Coastal Enterprises, Inc. "Rural Routes and Ventures," April 2015. <http://www.ceimaine.org/wp-content/uploads/2015/09/April2015.pdf>.