



Cortland County Industrial Development Agency Project Management

Report of Examination

Period Covered:

January 1, 2014 – June 30, 2015

2015M-303



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	1
INTRODUCTION	2
Background	2
Objective	2
Scope and Methodology	2
Comments of Agency Officials	3
PROJECT MANAGEMENT	4
Project Selection	4
Monitoring and Management	5
APPENDIX A Response From Agency Officials	8
APPENDIX B Audit Methodology and Standards	10
APPENDIX C How to Obtain Additional Copies of the Report	12
APPENDIX D Local Regional Office Listing	13

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2016

Dear Agency Officials:

A top priority of the Office of the State Comptroller is to help local officials manage government resources efficiently and effectively and, by so doing, provide accountability for public dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments and certain other public entities statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard governmental assets.

Following is a report of our audit of the Cortland County Industrial Development Agency, entitled Project Management. This audit was conducted pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Article 3 of the New York State General Municipal Law.

This audit's results are resources for agency officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

An industrial development agency (IDA) is an independent public benefit corporation established by a special act of the New York State Legislature for the benefit of a municipality and its residents. The powers and duties of IDAs are set forth primarily in General Municipal Law (GML). The purpose of an IDA is to promote, develop, encourage and assist in acquiring, constructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities. IDAs support projects meant to advance the job opportunities, health, general prosperity and economic welfare of the people of New York State. Typically, projects that receive IDA financial assistance involve the acquisition, construction or major renovation of buildings or other structures and generate short- and long-term employment in jobs related to construction and operations.

The Cortland County Industrial Development Agency (CCIDA) was created in 1974 and is composed of a seven-member Board of Directors (Board), which is appointed by the Cortland County (County) Legislature. The Board is responsible for the general management and control of CCIDA's financial and operational affairs. The Executive Director is the chief executive officer (CEO) who, along with management, is responsible for day-to-day operations. CCIDA funds its operations with fees charged to the businesses that participate in its projects. Approved projects receive financial assistance, including payments in lieu of taxes (PILOTs), sales tax exemptions or both.

CCIDA had 11 active projects as of June 30, 2015. These projects reported a total employment growth of 267 from the beginning of their CCIDA participation through November 2014.

Objective

The objective of our audit was to evaluate CCIDA's project management practices. Our audit addressed the following related question:

- Did the Board design and implement an adequate system to select and monitor participating projects and to manage the assistance provided to the businesses in the CCIDA tax exemption program?

Scope and Methodology

We examined the project documentation of CCIDA for the period January 1, 2014 through June 30, 2015. We extended our scope back to January 1, 2007 and forward to November 1, 2015 for trend analysis.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

**Comments of
Agency Officials**

The results of our audit have been discussed with Agency officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Agency officials agreed with our findings.

Project Management

The overall objective of an IDA is to provide the greatest economic gain to its constituency at the lowest possible cost. For example, an IDA may provide assistance for a project by reducing or eliminating various tax obligations for a business with the intent of generating additional jobs. The Board shall create and maintain a Uniform Tax Exempt Policy (UTEP) which provides the Board with detailed procedural guidelines to make project approval or denial decisions. The UTEP includes specific criteria for evaluating each project application based on the community's needs. IDA officials can then verify the information on project applications and prepare a cost-benefit analysis of each prospective project to help support their decision to either approve or deny the project application.

We found that CCIDA officials have developed adequate procedures for selecting and monitoring participating projects and for managing the assistance and incentives provided to the firms or businesses in the CCIDA tax exemption program. Projects are monitored and performance goals are tracked. If a project does not meet contractual agreements, CCIDA officials adjust tax exemption amounts based on performance.

Project Selection

As part of its process for approving or denying PILOT assistance to project applicants, the Board should have a mechanism to determine if any IDA officials would have a financial interest in the potential project. Therefore, the Board should adopt a Code of Ethics policy that defines potential conflicts of interest. In addition, Board members should complete and file financial disclosure forms with the County so that the Board's selection of projects does not create even the appearance of impropriety. Further, IDA officials should prepare a cost-benefit analysis for each proposed project based on the information provided in its application, to include all costs associated with the project and any expected benefits to the community. Such an analysis provides a basis for comparing an applicant's request for assistance with future benefits that the applicant intends to produce for the community.

CCIDA has established a UTEP for general projects, and project agreements allow for deviations from the UTEP when the Board deems them necessary. The policies are specific and clearly articulate project goals and abatement schedules. We also found that all Board members file a financial disclosure form upon joining the Board and certify the absence of a financial interest in each new project during project selection.¹

¹ We reviewed CCIDA's certificates, which were signed by the CEO, chief financial officer (CFO), office manager and voting Board members before each project was approved. The certificates included attestations that the signatories do not have interests in the applicant that would violate GML Article 18 or the IDA's Code of Ethics.

We reviewed the applications of all 11 CCIDA Board-approved projects that were active as of June 30, 2015. The Board had completed comprehensive cost-benefit analyses for all 11 projects to aid and support its decisions to approve CCIDA assistance. Project approvals were based on information² from project applicants and the IDA's UTEP.

We also verified that the data provided for all 11 projects was sufficient for the IDA to perform an effective analysis of the costs and benefits of the projects as they related to the affected local municipalities. Additionally, the Board has instituted a 30-day review period to fully assess the application and information related to a project and the associated cost-benefit analysis in detail.

Monitoring and Management

After selecting a project for assistance, an IDA must monitor project performance and effectiveness to ensure that the project meets contractual requirements for construction and improvements to new or existing property and the intended job goals. When possible, PILOT agreements should include provisions for the IDA to address shortcomings in timelines or goals that the projects are contractually obligated to meet.

CCIDA officials held project owners to the contractual stipulations for the PILOT agreements that we tested. CCIDA receives affidavits of job performance on an annual basis. CCIDA's CFO ordinarily performs direct observations of the projects, confirms employee counts and requests support for the affidavits when observation would prove cumbersome or doubtful. In addition, each active project with a sales tax exemption had an ST-60 form³ on file authorizing it.

We reviewed all 10 PILOT agreements and the sole sales tax agreement that required job creation or retention. Eight instances involved three projects where the IDA had to recapture tax exemptions. CCIDA properly instructed affected municipalities⁴ to carry out the recapture in all eight instances, which led to approximately \$110,300 in additional payments, beyond the PILOT agreement amounts, to those municipalities. CCIDA officials made these adjustments after annually verifying that those projects with contractual job requirements

² Information included a description of and the rationale for a proposed project, a history of the applicant company, a description of the requested benefits, an estimated employment impact and the cost-benefit analysis.

³ The ST-60 form, "IDA Appointment of Project Operator or Agent for Sales Tax Purposes," is used by an IDA to extend sales and compensating use tax exemptions to a company implementing an IDA-approved project and to notify the New York State Department of Taxation and Finance of the extension of assistance, thereby authorizing sales tax exemptions for that project.

⁴ Affected municipalities included towns, cities, counties and school districts.

maintained the agreed-upon job levels. These adjustments reflect an active monitoring and management process to protect the interests of the local municipalities where the PILOT projects are located.

CCIDA projects have been successful at increasing the long-term tax bases of the corresponding taxing municipalities. For example, four of 11 projects⁵ had cumulative PILOT payments over the terms of the agreements that netted the associated taxing jurisdictions approximately \$377,000 more than the real property tax revenues would have been if no projects or improvements occurred at the property locations.⁶ Because PILOTs are calculated based on the tax exemptions to the improvement value of the project properties, those payments are consistently larger than the property tax payment on the unimproved property.

Project	Estimated Real Property Tax Revenue on Pre-Project Assessment	Estimated PILOT Payment Revenue During PILOT Term	Net Benefit from PILOT Program
Clock Tower	\$16,976	\$119,828	\$102,852
Cortland Commerce Center	\$470,122	\$558,000	\$87,878
C\Ville LLC	\$42,805	\$203,708	\$160,903
Sky Hospitality	\$4,674	\$30,516	\$25,842
Total	\$534,577	\$912,052	\$377,475

We also estimated that the improvement value of all 11 projects totaled \$11.8 million, which will increase the tax assessment of these properties and generate additional tax revenues in future years after the conclusion of the PILOTs. The local municipalities' increased assessed values provide for further taxing power in future years and have the potential to lower the municipalities' overall tax rates. At the end of the PILOT terms, these projects will pay full taxes and provide revenues to the municipalities that may not have been available otherwise.

⁵ Seven projects did not net greater cumulative PILOT payments than the estimated cumulative taxes, as of November 1, 2015, that would have been paid had the projects not begun. Two of the seven projects will provide a future net benefit to municipalities because the assessed value of the real property where the projects are situated has increased, which will provide more taxes to the municipalities after the projects are over. For the five remaining projects that did not have a cumulative or future net benefit, four have demonstrated job growth as of November 2014. The last project, which did not demonstrate job growth by November 2014 or cumulative or future net benefit by November 2015, was started in October 2014.

⁶ Net amounts to taxing jurisdictions are based on projected real property tax payments at the pre-improvement assessed property values and the historical tax rate from the year each project started through 2015.

Sound practices and procedures, along with a knowledgeable staff and a well-informed Board, have led to CCIDA's sound and transparent processes. For example, upon joining the Board, members receive a manual of policies, procedures and relevant laws and training for their positions. Board members considered the manual to be an invaluable tool. The Board works collectively on all aspects of project selection, monitoring and management. As a result of their effective project management and monitoring, including the verification of reported data, the Board and CCIDA officials ensure that the community is receiving an appropriate return on its investment. Furthermore, they contribute to business growth within the County by encouraging project companies to develop or retain employment.

APPENDIX A

RESPONSE FROM AGENCY OFFICIALS

The Agency officials' response to this audit can be found on the following page.



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January 12, 2016

H. Todd Eames
Chief Examiner
Office of the State Comptroller
Division of Local Government and School Accountability
State Office Building, Suite 1702
44 Hawley St.
Binghamton, NY 13901-4417

Dear Mr. Eames:

We have reviewed the preliminary draft findings of the OSC's recent examination of the Cortland County Industrial Development Agency's project management and have discussed those findings in a January 11, 2016 exit interview with members of your staff.

We appreciate the intent of these examinations and commend your staff for the thoroughness and professionalism with which ours was conducted. Please be advised that we are in agreement with the findings both listed in the report and discussed during the exit interview. Above all, we are pleased that the results validate the CCIDA's methodology in its work to move Cortland County forward efficiently, effectively, and in a manner that is both transparent and accountable.

Sincerely,

A handwritten signature in black ink, appearing to read 'Garry L. VanGorder', written over a white background.

Garry L. VanGorder
Executive Director/CEO

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review the approving and monitoring of projects sponsored by CCIDA that were active for the period ending June 30, 2015. For selected projects, we extended our audit scope period back to 2007, the year of inception/sponsorship, and forward to November 1, 2015 for trend analysis.

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed the members of the Board, the CEO and the CFO of CCIDA, and reviewed meeting minutes, CCIDA bylaws, Public Authorities Reporting Information System reports, and CCIDA's UTEP and to gain an understanding of CCIDA's operations and policies and procedures applying to our audit work, specifically regarding the selection, monitoring and management of projects with tax abatement benefits.
- We reviewed cost-benefit analyses from project documentation for all 11 projects active as of June 30, 2015 to determine if they met all applicable requirements and if all calculations and assumptions were correct and reasonable.
- We reviewed project documentation for all 11 active projects to determine whether they provided for deviations from the UTEP and whether projects with sales tax abatements had the requisite ST-60 form on file authorizing the abatement.
- We compared the names of CCIDA officials with project documentation to identify any potential conflicts of interest. We asked CCIDA officials about the policies and procedures regarding potential conflicts of interest. We also reviewed and gained an understanding of the CCIDA Code of Ethics policy. We reviewed financial disclosure forms to determine if any potential conflicts of interest were identified on the forms.
- We inquired about the project monitoring process with CCIDA officials and assessed it for reasonableness and effectiveness, including the tax abatement adjustment process. We reviewed PILOT agreements, sales tax exemption letters, UTEPs, and PILOT billings to recalculate and verify the accuracy of adjustments.
- We compared the PILOT amounts billed by municipalities with the amounts due according to PILOT agreements and with the amounts paid to municipalities by project companies.
- We obtained and compared the assessed property value of each active project to document the overall effect on the property's taxable value.
- We compared the cumulative PILOT payment amounts with our estimate of the cumulative real property taxes had the project never been started, to determine the overall effect of the PILOTs from the start of each project to November 1, 2015.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX C

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