OFFICE OF THE NEW YORK STATE COMPTROLLER

DIVISION OF LOCAL GOVERNMENT
& SCHOOL ACCOUNTABILITY

Niagara County Industrial Development Agency

Project Approval and Monitoring

Report of Examination

Period Covered:

January 1, 2013 — January 30, 2015

2015M-93

Thomas P. DiNapoli

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State of New York
Office of the State Comptroller

Division of Local Government
and School Accountability

September 2015

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 Niagara County Industrial Development Agency, entitled Project Approval and Monitoring. 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 and recommendations 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

Industrial development agencies (IDAs) are independent public benefit corporations whose purpose is to promote, develop and assist in acquiring, constructing, improving, maintaining and equipping certain facilities, thereby advancing the job opportunities, health, general prosperity and economic welfare for the people of New York State.

The Niagara County Industrial Development Agency (NCIDA) was created under General Municipal Law (GML) and is governed by a Board of Directors (Board) composed of nine members who are each appointed by the County Legislature. The Board is responsible for the general management and control of NCIDA's financial and operational affairs. The Board appoints one individual to serve as both the Executive Director and Chief Executive Officer (CEO) who, along with management, is responsible for day-to-day operations. The current[1] CEO of NCIDA is also the Niagara County Department of Economic Development Commissioner.[2]

NCIDA funds its operations primarily with fees charged for processing applications, estimated at $577,497 for 2015. NCIDA also receives revenue from joint venture projects, estimated at $290,000; administration fees, estimated at $99,700; and rental and other miscellaneous income, estimated at $39,000 in 2015.

NCIDA generally assumes the title of the real and/or personal property owned by the businesses that are involved in approved projects, thereby allowing NCIDA to offer benefits to these businesses (i.e., exemptions from sales and use taxes, mortgage recording taxes and real property taxes). NCIDA is not required to pay taxes or assessments on any property it acquires or that is under its jurisdiction, control or supervision. To help offset the loss of revenues from the tax exemptions and abatements, businesses enter into a payment in lieu of taxes (PILOT)[3] agreement on approved projects governed by NCIDA's Uniform Tax Exemption Policy (UTEP). The local affected taxing jurisdictions (ATJs) prepare the annual billing for and collection of payments by the businesses on the PILOT agreements.

NCIDA reported 142 active projects during our audit period totaling approximately $1.2 billion.

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[1] During our audit period

[2] Appointed by the Niagara County Legislature

[3] PILOTs are amounts paid for certain tax-exempt parcels in lieu of real property taxes that would otherwise have been paid, had the property not been tax-exempt.

Objective

The objective of our audit was to review NCIDA's process for evaluating, approving and monitoring projects. Our audit addressed the following related question:

- Does the Board properly evaluate and award projects, and subsequently monitor the performance of the businesses that receive financial benefits?

Scope and Methodology

We examined NCIDA's records and project files for the period January 1, 2013 through January 30, 2015. We also analyzed related documents for certain projects initially sponsored as early as 1998 that were still active during our audit period.

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 C of this report.

Comments of Agency Officials and Corrective Action

The results of our audit and recommendations have been discussed with Agency officials, and their comments, which appear in Appendix B, have been considered in preparing this report. Agency officials generally agreed with our recommendations and indicated they plan to take corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of GML. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Executive Director's office.

Project Approval and Monitoring

The Board is responsible for the approval and monitoring of projects. Because tax benefits granted by IDAs result in a cost to the community, it is important for IDAs to consider more than just eligibility and develop project criteria that should be consistently applied when making project approval decisions.[4] IDAs should also establish procedures to properly monitor ongoing project performance to ensure that the community is benefiting from the businesses' activities. The Board and NCIDA officials should also consider whether a new or existing business would relocate if it did not receive financial assistance.

We reviewed 25 projects totaling approximately $535 million and found deficiencies in NCIDA's evaluation and approval of businesses seeking IDA benefits, its determination of benefits provided and its subsequent monitoring of the businesses for compliance. For example, the cost-benefit analysis (CBA) information prepared for each proposed project did not include a CBA ratio[5] calculation, and NCIDA officials did not establish any policy or procedure to define the information or explain how a CBA ratio could be calculated and applied in the evaluation process. Therefore, evaluation criteria may not be consistently applied, and the basis for approval or rejection of businesses may not be clear.

NCIDA officials also did not require periodic reporting of necessary information from businesses or verify the information that was provided and, therefore, did not adequately monitor projects to determine if goals were met or remedial action was needed. As a result, PILOTs totaling $69,513 were billed incorrectly. Further, NCIDA under-reported PILOTs totaling a net of $166,114 on its annual report[6] to the New York State Authorities Budget Office (ABO) for the year ending December 31, 2013.

Project Review and Approval

GML requires IDAs to establish a UTEP and Eligible Project Policy, which provides an IDA board with detailed procedural guidelines to make project approval or denial decisions. The UTEP should include

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4 NCIDA officials should ensure that all project applications are measured against consistent standards to reduce the risk of subjective approvals and denials not based on economic factors. Board-adopted policies should address the verification of information on the project applications as well as the preparation, review and determination of a cost-benefit analysis.

5 A tool to help determine the potential benefits of a project compared to the costs

6 NCIDA officials are required to certify that the information they report to the ABO is accurate.

specific criteria for evaluating each project application. The Board should also document and adopt all evaluation criteria not covered in the UTEP to provide guidance to management and to ensure consistent application in the evaluation process.

While the Board has adopted and generally adheres to its UTEP, our examination of 25 project applications[7] identified opportunities for improvement. For example, the UTEP does not address verifying data on the project application, such as capital investment figures. Additionally, although NCIDA officials prepare a spreadsheet containing CBA information for each project, the UTEP does not address what the information means and does not specify how CBA ratios can be calculated or what they represent. A CBA ratio could be a valuable tool to measure the direct community cost[8] against the direct community benefits[9] resulting from the proposed investment by the business. The Board and officials can establish different ratios for different industry classifications.[10]

By not verifying the reliability of information on project applications and on CBA forms, or not defining acceptable CBA ratios as additional project eligibility criteria, the Board may not have sufficient accurate and meaningful information on which to make its decisions.

Monitoring

A significant Board responsibility is to monitor and evaluate the performance and compliance of businesses receiving financial assistance to determine whether they are meeting the goals stated in their project applications and are held accountable. IDAs are also responsible for reporting annually to the Office of the State Comptroller and to the ABO on assistance provided to, and jobs created or retained by, each project. Without effective monitoring, an IDA will not be able to fulfill its annual reporting requirements or effectively identify and address business performance shortfalls, and the community may not receive the expected benefits from investments.

The Board requires certain annual reporting from businesses that have active projects, such as PILOTs, employment activity, salary and wages and sales tax exemptions. However, we found that the Board was not provided complete and accurate information with which to adequately monitor projects and evaluate whether PILOTs were properly made and to determine whether the businesses achieved, or made reasonable progress toward, targeted capital investment, employment projections and related benefits as stated in their

[7] See Appendix C for the methodology of our sample selection.
[8] Direct community cost includes property, sales and mortgage tax exemptions.
[9] Direct community benefits include capital investment, PILOT payments, wages and employee benefits.
[10] Such as manufacturing, retail and power plants

applications. Further, NCIDA officials do not verify the information the businesses annually report to NCIDA.[11] Without procedures to verify the accuracy of the information reported to NCIDA, officials cannot be sure that businesses receiving financial assistance are meeting established goals.

PILOTs – When an IDA grants real property tax exemptions, it may recapture a portion of the real property taxes in the form of PILOTs paid to the ATJs in accordance with the applicable PILOT agreement. To ensure that these benefits are properly administered, it is crucial for the NCIDA to have a process in place to track the calculated and actual PILOTs made by businesses to the ATJs.

NCIDA did not have an adequate process in place to track the PILOT amounts billed and collected. While NCIDA officials did perform PILOT calculations, they did not compare them to the actual amounts collected by the ATJs to ensure accuracy. As a result, NCIDA reported PILOTs to the ABO based on its own calculations, which were not accurate, rather than what was actually billed and collected.

We reviewed the PILOT agreements for the 25 projects in our sample and calculated the PILOTs due for the 2013 and 2014 tax years, totaling more than $2.8 million. We compared our calculations to actual PILOTs billed and receipted by ATJs[12] and found that three businesses were overbilled $34,465 and four businesses were underbilled $35,048.

Additionally, the PILOTs as reported by NCIDA officials in their annual reporting to the ABO were inaccurate because NCIDA officials based their reporting on their own calculated schedules rather than on actual PILOTs as reported by ATJs. For example, the reported PILOT amount for Greenpac Mill, LLC was $23,893, but the actual amount billed and received by local taxing jurisdictions was $287,692, a variance of over $263,000.

Without accurate PILOT data and annually verifying PILOT billings and receipts by ATJs, NCIDA cannot ensure compliance with PILOT agreements.

Capital Investment – The amount of capital investment a business intends to make is included as part of its project application and the NCIDA CBA, where applicable. The amount of capital investment will eventually influence the assessed value of the new building or major renovations and directly affects the amount of taxes the ATJs will receive after the facility is constructed or renovated. Therefore,

[11] NCIDA then submits this information to the ABO.
[12] As reported by the businesses on their annual reporting to NCIDA

it is important for NCIDA officials to verify the amount of capital that the project applicants invest to ensure that the actual investments agree with the amounts on the applications and in the CBAs. Further, capital investment by a business in buildings and machinery can be an indication of its long-term commitment to the local community.

NCIDA officials do not adequately monitor and verify businesses' capital investments. Although businesses indicate on their applications the intended capital investment, they do not submit periodic progress reports or any other documentation of actual capital investments, and NCIDA does not require them to, or have procedures to, verify capital investments. Therefore, NCIDA officials cannot ensure that the businesses are meeting, or making reasonable progress, toward their investment goals. Additionally, if businesses do not invest their own capital funds to the extent indicated in the applications, the projects' success may be at risk, increasing the possibility of the community not receiving the intended benefits.

<u>Job Performance</u> – When businesses apply for benefits, they are required to project the number of jobs that will be retained or created and related salaries and employee benefits that will be paid. Employee benefits are included in NCIDA's CBA ratio calculation. However, NCIDA officials do not verify the salary and benefits information provided by a business when it applies for sponsorship. Although this will be initially sufficient for a new business, once the business is operational the data should be periodically verified.

Businesses are required to annually report to NCIDA full-time equivalent (FTE) employment data and related salaries. However, NCIDA officials use this reported data to appraise the performance of the projects without verifying it. We also found that the reporting by the businesses was not consistent. While four businesses reported all data elements, 12 businesses reported FTE data only, and nine reported only summarized salaries and employee benefit data, neither of which meets NCIDA needs for a proper performance evaluation of the project. Without this information or uniform reporting by the sponsored businesses, NCIDA officials cannot conduct a comprehensive performance appraisal of the businesses.

We reviewed the December 31, 2013 annual job reports[13] for the 25 businesses and compared them to projected employment numbers in the project applications and found that, overall, the businesses did not meet their goals for retaining or creating jobs. The 25 businesses were projected to retain or create 1,682 jobs but reported 1,468, a shortfall

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[13] Four of these businesses submitted comprehensive employment-related information.

of 214 jobs. Sixteen businesses reported they did not achieve their projections by a total of 455 jobs and nine businesses reported they met or exceeded their projections by a total of 241 jobs. However, none of these reported jobs were verified by NCIDA officials.

By not adequately monitoring projects or verifying the data reported by the sponsored businesses, the Board and NCIDA officials cannot determine whether the community is getting an appropriate return on its investment and whether the projects should continue to receive benefits.

Recommendations

The Board and NCIDA officials should work in conjunction to:

1. Adopt policies and procedures critical to project evaluation, which should cover:

    - Verifying information on project applications.

    - Defining applicable project eligibility criteria to ensure consistent application.

2. Develop, adopt and document CBA ratios that provide for an appropriate and reasonable measurement of each applicant's project.

3. Ensure that all PILOT billing and payments are made in accordance with agreements.

4. Develop procedures to compare the PILOT schedule with receipts of PILOTs as reported by taxing jurisdictions.

5. Consult with legal counsel and, if feasible, pursue the recovery of underbilled PILOTs and subsequently remit the money to the ATJs and refund businesses, as appropriate, for overbillings.

6. Develop procedures to monitor and ensure that businesses' actual capital investments are consistent with those specified on the applications and used in the CBA.

7. Develop a job report form that adequately captures all data elements needed to monitor and evaluate businesses' performance. Verify information provided and ensure that all businesses comply with reporting requirements.

8. Periodically verify the accuracy and completeness of employment and capital investment information as provided

by the businesses before reporting such information to the ABO.

9. Develop procedures to ensure that businesses' annually reported data is evaluated to monitor performance and take appropriate action if their performance is less than anticipated or if required information is not received.

APPENDIX A

NCIDA ACTIVE PROJECTS SELECTED FOR REVIEW

Table 2: NCIDA Active Projects Selected for Review as of December 31, 2013 (Amended and Certified on November 7, 2014 per ABO Report)

Project Name	Project Amount	Exemptions	PILOT Payments	Net Employment Change
160 East Ave LLC	$1,060,000	$31,192	$12,960	11
210 Walnut St LLC	$1,900,000	$105,076	$23,550	168
Barry Steel Fabrications	$650,000	$7,954	$28,083	(8)
Candlelight Cabinetry Inc	$1,850,000	$22,635	$28,430	88
Pinegrove Real Estate	$3,744,000	$12,871	$31,380	0
Ulrich City Centre LLC	$3,000,000	$33,376	$16,870	(3)
224 Group LLC	$8,635,000	$20,972	$82,107	(1)
3780 Commerce Court Holding	$2,526,100	$25,221	$27,371	45
525 Wheat LLC	$960,000	$12,452	$12,276	34
Barden and Robeson Corp	$2,215,000	$7,798	$5,640	0
Brown Electric Inc.	$415,100	$7,118	$3,074	7
C15 Holdings LLC - dba DMIC	$4,714,500	$47,085	$35,566	46
Ceres Crystal Industries Inc.	$5,400,000	$8,952	$3,837	5
Greenpac Mill LLC	$407,500,000	$1,034,266	$23,893	136
Impressive Construction	$652,000	$12,636	$7,596	1
4511 Hyde Park, LLC and TAM Ceramics Group of NY LLC*[a]	$5,500,000	$0	$0	21
555 Holding, Inc.	$2,000,000	$30,133	$25,223	10
6867 Williams Road, LLC	$1,090,000	$0	$32,386	9
Ashland Advanced Materials LLC	$9,000,000	$0	$58,849	23
C16 Holdings, LLC	$5,090,000	$20,344	$17,216	30
Confer Plastics, Inc.	$2,600,000	$47,163	$40,147	4
First Niagara Bank/Lockport Savings Bank	$12,367,450	$45,229	$144,500	159
H2Gro, LLC	$9,030,000	$75,719	$57,121	37
JSK International Corporation	$23,600,000	$15,065	$87,627	0
Lewiston Golf Course Corporation	$19,325,000	$54,995	$194,080	37
Totals	**$534,824,150**	**$1,678,252**	**$999,782**	**859**

[a] PILOT agreement terminated

APPENDIX B

RESPONSE FROM AGENCY OFFICIALS

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

July 27, 2015

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Mr. Jeffrey D. Mazula, Chief Examiner
Office of the State Comptroller
Division of Local Government and School Accountability
295 Main Street, Suite 1032
Buffalo, New York 14203-2510

Dear Mr. Mazula:

This letter will serve as our formal response to your draft audit report titled Niagara County Industrial Development Agency Project Approval and Monitoring Report of Examination for the period January 1, 2013 – January 30, 2015.

The Niagara County Industrial Development Agency (the "Agency") has reviewed the draft report of the aforementioned audit with management and the Board. The discussion at the exit conference with the Comptroller's staff was informative and has allowed the Agency a better understanding of the issues and helped clarify the process moving forward. We are extremely pleased that nothing material was found in the audit. We acknowledge your reference to the 142 active projects totaling approximately $1.2 billion showing the Agency's effectiveness to promote, develop and assist economic development projects in Niagara County. We also appreciate your acknowledgement that our Board adheres to our Uniform Tax Exemption Policy (UTEP).

We appreciate the time your staff spent conducting the audit of the NCIDA. We will be drafting our Corrective Action Plan (CAP) to enhance and strengthen our policies related to the evaluation of projects, re-evaluate the cost-benefit process for applications, and more robustly monitor projects, jobs, and capital investments based on your recommendations. Set forth herein we have included responses to these specific items raised in your audit that may be subject to recommended "best practice" improvements.

1. The report suggests that NCIDA establish procedures to ensure that PILOT payments are made accurately and timely. Of course, we agree that this is important. That is why we are pleased with OSC's findings that during the period covered by the report (January, 2013 – January, 2015) the vast majority of Agency PILOT billings were made accurately or had only minor variances.

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Currently, the local taxing jurisdictions are and have been responsible for creating and billing companies under the PILOT agreements for those projects located in their jurisdictions. The local taxing jurisdictions within Niagara County consist of 12 towns, 3 cities, 5 villages and 10 school districts, adding to the complexity of providing the necessary PILOT information; however, we are proud of the work we have done to educate the taxing jurisdictions by holding PILOT seminars annually for a number of years. However, we recognize the continuing issues and discrepancies in the present system. Unfortunately, tax collectors for the affected tax jurisdictions can change annually within the County. In an effort to improve and streamline this complicated process, we have met with Niagara County officials, including the Director of Real Property and the County Treasurer. They agree that a centralized billing system would improve the accuracy and verification process for PILOT billings. We will continue to work with Niagara County to develop a central hub for billing all PILOTS. This should result in accurate PILOT bills being sent to the various companies, as well as provide an easier process for verification of PILOT billings for New York State reporting purposes.

In reviewing PILOT payments for all projects, the OSC pointed out a misunderstanding in respect to the reporting on the Greenpac Mill, LLC project. The assessment used to calculate the School PILOT was obtained by the Agency in March 2013 from the Niagara County Department of Real Property. The School PILOT billings are not prepared and due until August 2013. According to the City of Niagara Falls Assessor, the full assessment for the new building was finalized as of May 1, 2014. In this case, the assessment increased between these two dates, resulting in an under calculation of the PILOT amount as reported in PARIS by Agency staff. It is important to note that the School District did use the correct assessment amount and billed the PILOT correctly and it was only incorrectly reported in PARIS. Again, the taxing jurisdiction billed and collected the appropriate amount for this project.

2. An area the Audit identifies the Agency can make a "best practice" improvement is the current cost benefit analysis. In particular, it is being recommended that the Agency develop, adopt and document cost benefit analysis "ratios" that would provide a more specific measurement tool to the Board for each applicant's project.

Approximately four years ago, the Agency, in an attempt to improve its then existing cost benefit analysis, purchased and began using a cost benefit program called [redacted] is a world leader in providing economic impact data and modeling to governments, universities, and public and private sector organizations for assessing the economic impacts of project decisions in all industry sectors.

Mr. Jeffrey Mazula, Chief Examiner
Office of the State Comptroller
July 27, 2015
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In late 2013, the Agency purchased [redacted] which was developed by the Center for Governmental Research in Rochester, NY. [redacted] uses [redacted] modelling data and provides a more user friendly interface and reporting system. This program is currently used by over 30 industrial development agencies and public development corporations in New York State to provide a detailed cost benefit analysis to their respective boards. [redacted] is fully customized with Niagara County tax rates and economic multipliers that are unique to our County.

As stated, the Agency currently uses [redacted] to model the costs (incentives to the client such as PILOTs and sales tax abatements) against the benefits (the economic return in terms of jobs, labor income, sales, property and income tax). The Auditor's draft report suggests that the Agency does not calculate the cost-benefit analysis ratio. By performing a calculation relative to the Total Benefits to the State and Region (as calculated by [redacted]) vs. the Total Costs to the State and Region (as calculated by [redacted], this number can be added to the existing Agency Cost-Benefit Analysis document that is provided to the Board for each project.

Below is a sampling of several recent projects that have been approved by the Agency Board, including the calculated Cost-Benefit Analysis ratio. A higher number shows that the project contributes a larger monetary benefit versus cost to the community. The Agency recognizes that certain projects, based upon the type, provide a larger monetary benefit to the community than other types of projects. However, the Agency in evaluating these applications looks not only to the cost benefit analysis, but also at other factors including the number and type of jobs, additions to the tax roll, as well as a need for a particular type of project in Niagara County. A perfect example of a "need" project are hotels. Niagara County, and in particular Niagara Falls, is a tourist destination in its own right. In a traditional cost benefit analysis, a hotel project with its limited number of jobs, on its face, is not as attractive as a manufacturing project. However, the Agency has recognized the importance in Niagara County of supporting hotel type projects as a way of helping to rebuild the tourist infrastructure as deemed needed. Thus, by utilizing the cost benefit analysis, and in the future its corresponding ratio, the Agency Board will be able to use this information tool in evaluating each project by these various factors.

Cost Benefit Ratios for Recent Projects

Company	Type of Project	Total Benefit	Total Incentives	Ratio
Borderworx	Warehousing	$2,293,103	$582,170	3.938
Ivy Lea	Commercial	$2,068,234	$100,153	20.650
Pizza Logs	Manufacturing	$3,089,207	$418,244	7.386
Shree Ganpati	Hotel	$303,615	$237,284	1.279

3. It has been recommended that the Agency implement, as part of the project application, a more detailed inquiry where Agency officials can verify that the capital investment being made by a company as set forth in its application is consistent with the final project completion investment numbers.

Presently, the Agency's application requires a detailed set of investment numbers from each company estimating its investment, as well as providing information to be used in preparing an accurate cost benefit analysis. The Agency has and will continue to require that as part of any application the company submit to the Agency a certification, executed by a company official, whereby they certify as to the accuracy and correctness of those numbers and information provided in the application.

As additional incentive to ensure the accuracy of these numbers, included in all Agency leaseback agreements is a clawback section. This clawback language states that if it is determined by the Agency that a project beneficiary has submitted an application or documentation in support of an application which contains a false or misleading statement which is material to the applicant's benefits or which if omitted, would have rendered information in the application misleading in a material respect, the Agency could act to recapture the benefits provided to that company. Those benefits include PILOT benefits, sales tax benefits and mortgage tax benefits.

In addition to these two deterrents, it is important to note that all Agency benefits are proportionately given to companies based upon their actual investment in the project. All PILOT benefits are percentage based. Therefore, if the investment is more, the benefits are more, and in the alternative, if the investment is less, the benefit is less. The same is true in regards to both the sales tax benefit and mortgage tax benefit provided to the company.

The Agency acknowledges that a final verification of such investment would be appropriate for reporting purposes and post closing cost benefit calculations. Therefore, the Agency is considering a post closing certification form to be developed in which the company would certify as to the total investment it has made in the project. This additional information would be certified by the appropriate officer of the corporation and would allow the Agency the opportunity to compare the application numbers with these post closing certification figures. Thereafter, if a major discrepancy is found, the Board would have the opportunity to review the project and the cause of the discrepancy.

It has been recommended that the Agency ensure that all PILOT billing and payments are made in accordance with agreements as well as develop procedures to compare the PILOT schedules with receipts of PILOTs as reported by taxing jurisdictions. The Agency developed a procedure in March 2015 that records and compares all calculated PILOTs per schedules to PILOT payments received as reported by the taxing jurisdictions. This spread sheet also records total exemptions including property taxes, sales tax and mortgage recording taxes. The developed spread sheet will be used as a tool to identify any incorrectly billed and collected PILOTs so that the taxing jurisdiction can be contacted to correct any such errors. The spread sheet will also be used to input all PILOT and exemption information for annual reporting on PARIS.

4. The Audit recommends that the Agency develop a more extensive job report form that captures more information in regards to the jobs retained and created by the applicant company. This "best practice" recommendation would help the Agency in making its ABO required reporting on an annual basis, as well as to ensure that each company is in compliance with the job requirements of a particular project. The Agency currently requires project owners to provide a copy of Form NYS-45 Quarterly Combined Withholding, Wage Reporting & Unemployment Insurance Return which is filed with New York State each quarter to verify employment numbers provided on their annual employment survey. The Agency will develop a more extensive job report to enhance the employment information already collected from the project owners to better monitor and evaluate business performance as suggested.

We recognize there may be instances where there is an unfortunate dip in the job numbers reported by a particular business for a given year. In these instances, the Agency staff is directed to contact the Niagara County Retention Team to immediately schedule a retention visit to that company. This will allow the staff to personally visit the business to determine the cause of the job fluctuation. In addition, the staff will be able to provide a regular update to the Board in respect to the job numbers.

It is and has been the goal of the Agency to conduct itself in the most business friendly method possible, while protecting the assets of Niagara County taxpayers. The Agency understands the dual role of both creating jobs and opportunities, while insuring the taxpayers of Niagara County are protected. A continuing example of protecting the taxpayer is the implementation of the PILOT mortgage over seven years ago. Prior to the PILOT mortgage, the taxing jurisdictions were treated as an unsecured creditor for past due PILOT payments. Under the PILOT mortgage, the affected tax jurisdictions now are treated as secured creditors, and in most cases holding a secured position in front of a lender or bank.

Finally, the Agency appreciates the time and efforts of the Comptroller's staff in conducting the audit of the Agency. We view these "best practice" recommendations as set forth in the audit as an opportunity to enhance and strengthen the current policies of the Agency as related to the evaluation of projects, the cost benefit analysis process and job and capital investment monitoring. We will draft and file a more thorough Corrective Active Plan which will set forth the steps the Agency will be taking in the future, and show our continued efforts for constant improvement.

Thank you again for your time and efforts in this matter.

Sincerely,

Henry M. Sloma
Chairman of the Board

HMS/mib

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review the approving and monitoring of projects sponsored by NCIDA that were active for the period January 1, 2013 through January 30, 2015. For selected projects, we extended our audit period back to 1998, the year of inception/sponsorship. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed NCIDA officials and staff to gain an understanding of the project approval, monitoring and administrative fee billing and collection procedures.

- We reviewed NCIDA's Board meeting minutes and policies, including the UTEP, to identify written criteria outlining an applicant's eligibility for sponsorship and the benefits that may be offered.

- We selected a judgmental sample of 25 projects based on project type, cost and affected taxing jurisdictions, so as to have a representative sample of diverse industries and cost levels.

- We reviewed the application and project files for all 25 projects tested to determine if applications were complete, were supported with appropriate documentation and evidenced a review by NCIDA officials.

- We reviewed the annual reporting by businesses to evaluate whether the Board and NCIDA officials were getting adequate information to assess the businesses' performance.

- We recomputed PILOTs due and reviewed the PILOT agreements and actual payments to determine if payments were accurate, complied with the agreements and were made in a timely manner.

- We compared the reported actual job numbers by the businesses to projected jobs on the application.

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 D

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APPENDIX E

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