



# Syracuse Industrial Development Agency

## Project Approval and Monitoring and Administration of the Development Fund

### Report of Examination

Period Covered:

January 1, 2014 — March 31, 2015

2015M-240



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **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 Syracuse Industrial Development Agency, entitled Project Approval and Monitoring and Administration of the Development Fund. 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*



## State of New York Office of the State Comptroller

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### EXECUTIVE SUMMARY

The City of Syracuse Industrial Development Agency (SIDA) was created in 1979 by the New York State Legislature. SIDA's Board of Directors (Board) is composed of five members, who are appointed by the Mayor and responsible for the general management and control of SIDA's financial and operational affairs. The Board appoints an executive director who, along with the chief financial officer, is responsible for day-to-day operations. SIDA funds its operations primarily with fees charged for processing applications and administering financial assistance.

SIDA was created for, among other purposes, promoting, developing, encouraging and assisting in acquiring and constructing certain types of facilities, thereby advancing job opportunities, health, general prosperity and the economic welfare of the people of New York State. SIDA offers financial assistance to businesses, including mortgage, sales and real property tax exemptions. Many of the projects that receive financial assistance from SIDA include agreements to make annual payments in lieu of taxes to affected local governments to help offset the loss of revenues from tax exemptions provided.

As of December 31, 2014, SIDA reported a total of 67 active projects that received approximately \$12.5 million in tax exemptions during 2014. SIDA also administers a Development Fund (Fund) on behalf of the City of Syracuse (City) for the purpose of financing commercial and neighborhood development projects. As of December 31, 2014, SIDA's financial statements showed a liability due to the City of approximately \$2 million for the Fund.

#### **Scope and Objectives**

The objectives of our audit were to review SIDA's process for evaluating, approving and monitoring projects, and to determine whether the Board was effectively administering the Fund for the period January 1, 2014 through March 31, 2015. We extended our audit scope back to 2010 to review applications, jobs and capital expenditure data for projects that were still active during our audit period. We extended our audit scope back to December 31, 2010 and through July 31, 2015 to review the cash balances in the Fund. Our audit addressed the following related questions:

- Does the Board appropriately evaluate and award projects and subsequently monitor the performance of the businesses that received financial benefits?
- Does the Board effectively administer the Fund money?

## **Audit Results**

The Board does not appropriately evaluate and award projects or monitor the performance of the businesses that receive financial benefits. The Board has not established adequate criteria for project approval or denial decisions. Although the Board has established a Uniform Tax Exemption Policy (UTEP), this policy does not contain all of the criteria the Board purportedly uses when evaluating proposed projects, such as the nature of the project and the number of jobs to be created or retained, and does not include guidelines for claiming sales and mortgage tax exemptions as required by General Municipal Law. Although SIDA officials engage a third party to complete a cost-benefit analysis (CBA) for proposed projects, the CBAs do not adequately compare the community costs against the expected benefits. As a result, the Board may not have all necessary and relevant data to make project approval or denial decisions or to provide assurance that benefits are awarded through an objective process and the assistance granted has provided adequate benefits to the community.

The Board does not evaluate the performance of companies receiving assistance because it has no procedures in place to compare employment and capital expenditure goals, as stated in project applications, against actual results. To receive tax exemptions, businesses have to represent they will retain or create a certain number of jobs and invest an estimated amount of capital. Although the UTEP contains a recapture provision for businesses that are not meeting project goals, this provision, while not required, does not provide adequate detail, such as specific events that could trigger recapture and plans for implementation or potential penalties. As a result, businesses may receive financial assistance without providing expected benefits to the community.

SIDA officials did not effectively administer the Fund money. This Fund was established in 1986 when the City loaned money to SIDA for the purpose of financing commercial and neighborhood development projects. However, SIDA officials, who have served since 2010, have no knowledge of any prior use of the Fund for its intended purpose of making loans to qualified applicants and, for the last four and one half years, there have been no loans made. Furthermore, in July 2012, SIDA officials transferred \$475,000 to a debt service account to make payment on one of SIDA's outstanding loans to the United States Department of Housing and Urban Development. As of July 31, 2015, the money transferred out had not been replaced and the Fund had only \$18,569 in its cash account. Furthermore, SIDA's audited financial statements show that over \$2 million is due to the City from the Fund. SIDA officials should coordinate with City officials to determine the extent to which the \$2 million liability should be repaid to the City.

## **Comments of Agency Officials**

The results of our audit and recommendations have been discussed with SIDA officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Agency officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on issues raised in SIDA's response letter.

# 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. The overall goals of IDAs are to advance the job opportunities, health, general prosperity and economic welfare of the people of New York State. Typically, projects that receive IDA benefits 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 City of Syracuse IDA (SIDA) was created in 1979 by the New York State Legislature. SIDA's Board of Directors (Board) is composed of five members, who are appointed by the Mayor. The Board is responsible for the general management and control of SIDA's financial and operational affairs. The Board appoints an executive director who, along with the chief financial officer, is responsible for day-to-day operations. SIDA funds its operations primarily with fees charged for processing applications and for administering financial assistance.

Financial assistance available to businesses that receive SIDA support includes exemptions from real property, mortgage and sales taxes. SIDA generally enters into a lease-leaseback agreement for the property owned or leased by the business, which facilitates the provision of the financial assistance as the property is tax-exempt under the IDA statute. In return, many of the projects that receive financial assistance from SIDA create new jobs or retain existing jobs in the community, invest capital in new buildings or in the renovation of existing buildings and agree to make annual payments in lieu of taxes (PILOTs) for affected local governments to help offset the loss of revenues from the tax exemptions provided.

As of December 31, 2014, SIDA reported a total of 67 active projects that received approximately \$12.5 million in tax exemptions during 2014. SIDA also administers a Development Fund (Fund) on behalf of the City of Syracuse (City). This Fund was established in 1986 when the City loaned money to SIDA for the purpose of financing commercial and neighborhood development projects. As of December



31, 2014, SIDA's audited financial statements showed a liability due to the City of approximately \$2 million for the Fund.

## **Objectives**

The objectives of our audit were to review SIDA's process for evaluating, approving and monitoring projects and to determine if the Board was effectively administering the Fund. Our audit addressed the following related questions:

- Does the Board appropriately evaluate and award projects and subsequently monitor the performance of the businesses that received financial benefits?
- Does the Board effectively administer the City's Fund money?

## **Scope and Methodology**

We evaluated SIDA's financial records and project files for the period January 1, 2014 through March 31, 2015. We extended our audit scope back to 2010 to review applications, jobs and capital expenditure data for projects that were still active during our audit period. We extended our audit scope back to December 31, 2010 and through July 31, 2015 to review the cash balances in the Fund.

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. 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 and Corrective Action**

The results of our audit and recommendations have been discussed with SIDA officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, SIDA officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on issues raised in SIDA's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the 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 Secretary's office.

## Project Approval and Monitoring

GML provides that certain types of projects are eligible for IDA financial assistance. Because this financial assistance often includes tax exemptions, an IDA project typically results in a cost to “affected tax jurisdictions.”<sup>1</sup> It is important, therefore, for IDAs to develop detailed project evaluation criteria, which should be consistently applied when making project evaluation and selection decisions. As a matter of sound business practice, IDA officials should prepare a cost-benefit analysis (CBA) of each prospective project, comparing the cost of the requested assistance (e.g., the estimated value of the tax exemptions) to the intended project benefits to the community, to assist in their decision to either approve or deny a project application.

The Board is also responsible for monitoring and evaluating the performance of businesses receiving financial assistance to determine whether they are meeting the goals established in their project applications. In addition, the Board should clearly define what is expected from businesses and have policies and procedures to hold businesses accountable if expectations are not met.

The Board does not appropriately evaluate projects and award financial benefits because it has not established adequate project evaluation criteria. Although the Board has established a Uniform Tax Exemption Policy (UTEP), the policy does not include general criteria applicable to all projects or guidelines for projects seeking mortgage recording or sales tax exemptions. In addition, the CBAs used to evaluate projects do not compare the community costs against expected community benefits. Moreover, the Board does not properly monitor the performance of businesses because it does not compare employment and capital investment goals against actual project results. Lastly, although the UTEP contains a recapture provision, this provision is vague and does not include specific events that could trigger recapture and plans for implementation or potential penalties. While we acknowledge that specificity in the recapture clause is not required, it is good business practice to include some type of criteria to facilitate accountability.

### Project Review and Approval

IDAs are required by law to establish a UTEP which provides the Board with guidelines to make project approval or denial decisions. The UTEP must include guidelines for real property, mortgage recording and sales tax exemptions. IDAs, in adopting a UTEP,

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<sup>1</sup> GML defines “affected tax jurisdictions” as municipalities or school districts in which an IDA project is located which will not receive real property tax payments or other tax payments which would otherwise be due.



must consider such factors as the extent to which a project will create or retain permanent private sector jobs, impact on existing and proposed businesses, amount of private sector investment likely to be generated by the project, demonstrated public support for the project, estimated value of any tax exemptions and whether the affected taxing jurisdictions will be reimbursed if the project does not fulfill the purposes for which the exemption was provided.

Good business practices dictate that IDA officials prepare a CBA for each proposed project based on the information provided in the application. The CBA could provide officials with a tool to compare the direct community costs<sup>2</sup> of proposed projects against the expected community benefits.<sup>3</sup> It is important that each CBA include all the costs associated with a project, as well as any benefits to the community that are expected to be derived from the project, to help assist the Board in deciding whether to approve or deny a project. The Board should use the results of the CBA when evaluating a project's eligibility for assistance and to ensure taxpayers receive an adequate benefit.

Although the Board has adopted a UTEP, the UTEP does not contain all of the criteria the Board purportedly uses when evaluating proposed projects or certain criteria required by GML. In addition, although SIDA officials review CBAs for proposed projects, these CBAs do not provide officials with a means to measure the community costs of the projects against the expected benefits.

Evaluation Criteria – The Board has adopted a UTEP that includes procedures for completing an application for benefits, submitting PILOT payments and deviating from PILOT schedules, and also includes PILOT schedules and the types of projects eligible for real property tax exemptions. Although Board members told us that they consider general criteria applicable to all projects, such as the nature of the project and its effect on the surrounding community, the number of jobs to be created or retained, the business experience of the project applicant and the extent to which SIDA assistance is necessary for the project to be economically viable, these general criteria are not included in the UTEP or other Board-adopted policy. Furthermore, the UTEP does not include guidelines for claiming mortgage recording or sales tax exemptions as required by GML.

Had the Board developed specific written evaluation criteria for all of the types of financial assistance SIDA provides, the Board would

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<sup>2</sup> The total estimated value of tax exemptions

<sup>3</sup> Benefits could include the creation or retention of jobs, the generation of private sector capital investment and additional sources of revenues to affected tax jurisdictions.

have been in a better position to make project approval or denial decisions. In addition, taxpayers would have additional assurance that SIDA benefits were awarded through an objective and consistent process.

Cost-Benefit Analysis – SIDA officials engage a third-party non-profit organization to provide CBAs for proposed projects. These CBAs are primarily narratives that explain why SIDA’s assistance is necessary to ensure the economic success of projects or to encourage and incentivize project applicants to initiate and complete the projects locally. The CBAs also identify many of the non-monetary benefits available to the community, such as the rehabilitation of a vacant or deteriorated property or the reopening of a grocery store that is needed in a low-income urban neighborhood. They also generally address whether IDA assistance is needed for a project to move forward. However, these CBAs do not adequately compare the community costs of the projects against expected community benefits. For example, the CBAs do not include salary and benefits information<sup>4</sup> associated with the jobs to be created or retained by the proposed projects. In addition, we identified CBAs that did not consider sales tax exemptions, which were subsequently received by the companies, and CBAs that did not identify any monetary costs, such as the estimated value of tax exemptions, or monetary benefits. By factoring in both the community costs and the expected benefits into its written CBAs, the Board would have a more effective evaluation tool for making its project approval decisions.

## Monitoring

A significant Board responsibility is to monitor and evaluate the performance of businesses receiving financial assistance to determine whether they are meeting the goals included in their project applications. Without adequate monitoring, the Board cannot effectively identify and address project performance shortfalls which could result in the community not receiving promised benefits. When project performance is less than expected, IDAs may use recapture policies or provisions in project contracts that allow for the return of some or all of the financial assistance granted.

The Board and SIDA officials did not adequately monitor and evaluate the performance of businesses receiving assistance to ensure the projects achieved their job and investment goals. Furthermore, while the UTEP contains a recapture provision relating to project goals that are not being met, this provision does not provide adequate detail, such as specific requirements for recourse and plans for implementation, or potential penalties. We acknowledge that specificity in the recapture

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<sup>4</sup> SIDA’s application does not ask applicants to furnish salary and benefits information for current jobs or the jobs to be created or maintained.

clause is not required; however, it is good business practice to include some type of criteria to facilitate accountability.

Job Creation/Retention Performance – When a business applies to SIDA for financial assistance, it is required to report on its application the number of jobs prior to the start of the project and the estimated number of jobs that will be retained or created upon project completion. The business must also agree to report the current number of jobs related to the project, on an annual basis. The Board and SIDA officials should establish a process to monitor and compare job creation and retention results with established goals to ensure the community is receiving intended benefits and to help the Board evaluate whether it needs to address a project not meeting its goals. The Board should also ensure the jobs data received is reliable.

The Board has not established procedures to monitor job creation and retention to determine whether businesses have achieved their established goals. Board members and SIDA officials told us that they do not compare the estimated number of jobs to be created or retained as stated in project applications to the actual number of jobs reported annually. Without this comparison, Board members will not be aware of businesses that are not substantially meeting project goals, and there is an increased risk that businesses will continue to receive benefits without fulfilling their employment goals. Furthermore, although not required, SIDA officials do not request supporting documentation (i.e., payroll records) from businesses to verify both the stated number of jobs at the time of application and the current number of jobs on annually submitted job reports. As a result, the information necessary to measure job creation and retention could be inaccurate. For example, if an applicant understates current job numbers in the application and SIDA officials do not identify this error, the reported number of new jobs created in future years could be inflated. In addition, the Board has not adopted processes or procedures to ensure jobs reports are received in a timely manner.

We compared the present jobs and estimated jobs to be created or retained from applications to the December 31, 2014 annual job reports, for all businesses that had completed their projects from January 1, 2010 through December 31, 2012. Our sample consisted of nine businesses that completed projects during this period. Two of the businesses did not submit annual job reports. We reviewed seven of the remaining businesses that received approximately \$928,000 in tax exemptions during 2014. Figure 1 summarizes our comparison of projected and reported jobs.

**Figure 1: Job Creation/Retention**

| Project        | Jobs Prior to SIDA Sponsorship | Estimated Job Creation | Total Jobs Estimated | Total Jobs Reported as of December 31, 2014 | Reported Jobs Over/(Under) Projection |
|----------------|--------------------------------|------------------------|----------------------|---|---------------------------------------|
| 1              | 1                              | 10                     | 11                   | 6   | (5)                                   |
| 2              | 0                              | 23                     | 23                   | 21  | (2)                                   |
| 3              | 7                              | 7                      | 14                   | 28  | 14                                    |
| 4              | 0                              | 6                      | 6                    | 7   | 1                                     |
| 5              | 0                              | 50                     | 50                   | 183   | 133                                   |
| 6              | 65                             | 14                     | 79                   | 77  | (2)                                   |
| 7 <sup>a</sup> | 44.5                           | 48                     | 92.5                 | 87  | (5.5)                                 |
| <b>Total</b>   | <b>117.5</b>                   | <b>158</b>             | <b>275.5</b>         | <b>409</b>                                  | <b>133.5</b>                          |

<sup>a</sup> The partial jobs reported for this project are the result of part-time jobs listed on the project application. SIDA officials told us that they consider two part-time jobs equivalent to one full-time job.

Of these seven projects, three projects exceeded job goals by 148 jobs, which resulted in our total sample exceeding its job goals by 133.5 jobs. The remaining four did not meet the job goals in their applications. These four projects were anticipated to create and retain 205.5 jobs but reported 191 jobs as of December 31, 2014, resulting in a shortfall of 14.5 jobs.

Capital Investment – When a business applies for benefits, it is required by SIDA to itemize the breakdown<sup>5</sup> of anticipated project costs in its application. The amount of capital investment that a business intends to make should be a part of the CBA (see the Cost-Benefit Analysis section). The amount of this investment could eventually impact the assessed value of a project’s real property and directly affect the amount of taxes that the local taxing jurisdictions will receive after the facility is constructed or renovated and no longer exempt from taxes. Therefore, it is important that SIDA officials verify the amount of capital that the project applicants invest to ensure the actual investment agrees with the anticipated project costs on the application and that the community receives the expected benefits of this investment.

Until December 2014, the Board had not established a process to monitor and evaluate whether businesses were achieving their capital investment goals. In December 2014, SIDA began to require<sup>6</sup>

<sup>5</sup> Examples of project costs include demolition, foundation, metals, wood, thermal, finishes, electrical, plumbing, HVAC, machinery, furniture, fixtures and professional fees.

<sup>6</sup> SIDA leaseback agreements from December 2014 and forward include provisions requiring businesses to submit contract status reports on a quarterly basis during project construction. The itemized construction costs listed on the contract status reports are similar to the anticipated construction costs in the applications.

businesses to submit quarterly status reports showing the itemized construction costs of the projects. Businesses whose projects were initiated before December 2014 are only required to submit the status reports when the businesses request an extension of their sales and use tax exemptions. The executive director told us that SIDA plans to compare anticipated project costs from applications to quarterly status reports to determine whether capital investment goals are being met. It is important for SIDA officials to have a method of verifying capital investments to ensure businesses are meeting, or making reasonable progress toward, their investment goals. 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 intended benefits.

Recapture of Financial Assistance – IDAs may place provisions in project contracts that allow them to recapture, or recover, financial assistance if businesses do not meet project goals. Penalties for nonperformance such as a shortfall in job creation could take various forms. For example, a business could be prohibited from reapplying for IDA financial assistance, or a recapture provision could require the business to return all or part of the amount of tax exemptions received. The Board should clearly convey its expectations to businesses and have policies and procedures to hold these businesses accountable if expectations are not met.

SIDA has a recapture provision in its UTEP. However, the recapture provision is stated in general terms, reserving the right of SIDA to impose “penalties and/or sanctions at its discretion” when “Project Standards” are not maintained through the term of a PILOT agreement. In our view, the UTEP should include greater detail as to the specific events that could trigger recapture and the manner of implementation, such as inclusion of specific recapture provisions in project agreements. Because the UTEP has little guidance for implementation of recapture, the potential recapture of assistance from projects that do not maintain “Project Standards” is left to the Board to define in each instance. Furthermore, without language explaining the events that could lead to recapture, project applicants may not have a clear understanding of which performance goals they will be held accountable for and to what extent.

Without adequate procedures to monitor the performance of ongoing projects and without strong recapture provisions, businesses may receive financial assistance without providing expected benefits to the community.

## Recommendations

The Board and SIDA officials should:

1. Review and update the UTEP to ensure that it includes guidelines for claiming mortgage recording or sales tax exemptions and all applicable criteria necessary to make project evaluation decisions.
2. Ensure that CBAs compare the community costs of proposed projects to the expected benefits.
3. Develop procedures to monitor and evaluate job creation and retention and capital investments to determine if projects are meeting the goals stated in their applications.
4. Verify the employment data that businesses report on applications and annual reports to determine whether reported data is accurate and reliable.
5. Develop procedures to ensure businesses annually submit required job data and take appropriate action if required information is not received.
6. For future project contracts, review and update recapture language in the UTEP or contracts to more clearly define the goals that businesses will be held accountable for, the events that could trigger recapture and the manner in which recapture will be implemented.



## Development Fund

In 1986, the City Common Council passed an ordinance to use certain money to create an “Economic Development Fund” and to loan a portion of the fund to SIDA and the Syracuse Urban Renewal Agency, “for commercial and neighborhood development by means of said Agencies loaning the monies to qualified applicants and projects...”<sup>7</sup> According to the notes in SIDA’s audited financial statements, SIDA serves as a conduit between loan recipients and the City. All earnings and potential losses from the activities are recorded by SIDA in the Fund. Because such fund reverts back to the City, SIDA has no net position in the Fund.<sup>8</sup> As of December 31, 2014, SIDA’s financial statements reported a long-term liability due to the City of \$2,020,305 for the Fund.

SIDA did not effectively administer Fund money during our audit period. SIDA maintains a separate cash account in its financial records to track the money in the Fund. However, current SIDA Board members, who have served since 2010, told us that they have no knowledge of any prior use of the Fund for its intended purpose of making loans to qualified applicants.

From December 31, 2010<sup>9</sup> through July 31, 2015, SIDA officials made no loans from the Fund. The only significant transaction during this period was in July 2012 when officials transferred \$475,000 to a debt service account to make a payment on one of SIDA’s outstanding loans to the United States Department of Housing and Urban Development.<sup>10</sup> Primarily because of this transfer, the cash balance of the Fund decreased from \$494,069 on December 31, 2010 to \$18,569 as of July 31, 2015.<sup>11</sup> The claim voucher associated with this transfer indicated that SIDA intended to repay the money it borrowed from the Fund using future agency fees; however, as of July 2015, SIDA had not transferred any money back into the Fund. SIDA officials have not coordinated with City officials to determine the extent to which the \$2 million liability should be repaid to the City.

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<sup>7</sup> We express no view as to the propriety of the City loaning moneys to SIDA for this purpose because this matter is outside the scope of the audit.

<sup>8</sup> As stated in the notes to SIDA’s December 31, 2014 financial statements

<sup>9</sup> SIDA’s current computerized accounting system goes back to December 31, 2010.

<sup>10</sup> This payment related to a Community Development Block Grant Section 108 loan guarantee assistance program.

<sup>11</sup> Records indicate there were various amounts of interest credited and bank service fees charged to the account on a regular basis from December 2010 through July 2015.

**Recommendation**

7. SIDA officials should coordinate with the City to determine the extent to which the \$2 million liability related to the Fund should be repaid to the City.

## **APPENDIX A**

### **RESPONSE FROM AGENCY OFFICIALS**

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

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**City of Syracuse**  
**Industrial Development Agency**  
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December 28, 2015

Rebecca Wilcox  
Chief Examiner  
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333 East Washington Street  
Syracuse, New York 13202-1428

Dear Ms. Wilcox,

On behalf of the City of Syracuse Industrial Development Agency (“SIDA” or “the Agency”), please accept this letter as SIDA’s formal response to your Draft Audit Report covering the period of January 1, 2014 – March 31, 2015.

Following a thorough review by the SIDA board of directors and staff, I would like to offer the following responses to the recommendations contained in the Draft Audit Report:

**Recommendation: Review and update the UTEP to ensure that it includes guidelines for claiming mortgage recording or sales tax exemptions; and all applicable criteria necessary to make project evaluations.**

**Response:** In August 2011 the SIDA board updated the Agency’s UTEP for the first time since 1998. The purpose of the UTEP revision was to develop a more consistent and transparent policy for awarding public benefits and was prompted by a reconstituted board appointed Mayor Miner at the beginning of her first term one year earlier. SIDA again revised the UTEP in December 2012 to add a recapture (aka claw back) provision to further enhance the Agency’s ability to maximize community benefits by holding projects accountable for their commitments (ex. job creation, investment, etc..).

SIDA intends to comply with the recommendation to include guidelines for claiming mortgage recording and sales tax exemptions in the UTEP, as it is consistent with the board’s recent track record of ensuring a transparent and equitable approach to awarding public benefits.

**Recommendation: Ensure that cost benefit analyses compare the community costs of proposed projects to the expected benefits.**

**Response:** The SIDA board and staff go to great lengths to ensure cost benefit analyses (CBAs) compare community costs and benefits, as evidenced by the fact that the Agency pays an independent third party consultant, the National Development Council (NDC), to perform CBAs for every project. The NDC CBAs go well above and beyond a traditional cost benefit ratio analysis, and examine among other things whether or not a project would be financially feasible but for the Agency’s assistance. This “but for” test is a critical consideration for the Agency so as to ensure only projects that truly need assistance receive it.

SIDA believes the Agency's current CBA process more than adequately addresses this recommendation but is willing to explore ways in which the existing process may be enhanced to further ensure maximum community benefit is achieved for future projects.

**Recommendation: Develop procedures to monitor and evaluate job creation/retention and capital investments to determine if projects are meeting the goals stated in their applications.**

**Response:** Contrary to statements in the Draft Audit Report, SIDA has an established process and procedures to monitor job creation/retention and financial benefit information from Agency projects through a web-based reporting system. Project contacts receive annual email requests for project information, which is collected and reviewed by Agency staff. It is through this system that the Draft Audit Report was able to confirm that Agency projects sampled exceeded job projections by 133.5 or 33%. To date, SIDA has not directly monitored capital investments because the benefits conveyed to the projects, which are monitored by the Agency, are directly related to the capital investments made. In other words, if the mortgage amount for a project is less than originally estimated, the actual mortgage recording tax exemption is also going to be proportionally less (i.e. 1% of the mortgage). Similarly, the sales tax exemption received is going to be based on the actual expenditures made, as opposed to the initial estimates provided, and is capped. This sales tax information is confirmed by Agency staff through the annual collection of ST-340 forms.

See  
Note 1  
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SIDA will take this recommendation into consideration and explore ways in which the existing process and procedures to monitor and evaluate projects can be enhanced to ensure projects continue to meet their goals.

**Recommendation: Verify the employment data that businesses report on applications and annual reports to determine whether data is accurate and reliable.**

**Response:** As previously stated, the Draft Audit Report confirmed SIDA projects have a strong record of meeting and exceeding job projections. That said, SIDA understands and appreciates the intent of the recommendation and while financial resources and staff capacity will be an important consideration, the Agency will explore ways in which to more formally verify employment data.

**Recommendation: Develop procedures to ensure businesses annually submit required job data and take appropriate action if required information is not received.**

**Response:** As previously stated, SIDA has an established process to monitor job creation/retention and financial benefit information from Agency projects through a web-based reporting system. The Agency will explore ways in which the existing procedures in place can be strengthened to ensure project compliance.

**Recommendation: For future project contracts, review and update recapture language in the UTEP or contracts, to more clearly define the goals that businesses will be held accountable for, the events that could trigger recapture and the manner in which recapture will be implemented.**

**Response:** As previously stated, SIDA revised the UTEP in December 2012 to add a recapture (aka claw back) provision. Furthermore, the recapture provision has since been incorporated in to all of SIDA's transactional documents. Given the unique nature of each project, the Agency believes it's important to

allow for flexibility in the process by which benefits are recaptured. While SIDA intends to maintain this flexibility rather than rely on arbitrary and/or rigid performance standards, the SIDA board will review and consider updating the UTEP and related documents to ensure the Agency's expectations and policies are clearly communicated. Again, as evidenced by the Draft Audit Response, of the 67 pending SIDA projects reviewed, employment projections have been met or exceeded (by 133.5 jobs) in all but 4 projects; and of those 4 projects, it was estimated that job creation would reach 205.5 and to date those projects have achieved a 93% success rate creating 191 jobs.

See  
Note 2  
Page 19

**Recommendation:** SIDA officials should coordinate with the City to determine the extent to which the \$2 million liability related to the Fund should be repaid to the City.

**Response:** The SIDA development fund was capitalized by the City of Syracuse in 1986. Since this issue was brought to light during the audit process, Agency staff has been in discussions with the City of Syracuse as to how handle the liability. Discussions are ongoing.

For additional information on SIDA's written response to the Draft Audit Report, please do not hesitate to contact me at [bwalsh@syrgov.net](mailto:bwalsh@syrgov.net) or 315-448-8028 at any time. Thank you for your consideration.

Regards,

Benjamin Walsh  
Executive Director



## **APPENDIX B**

### **OSC COMMENTS ON THE AGENCY'S RESPONSE**

#### **Note 1**

We acknowledge SIDA officials have a process to receive annual reports from businesses that identify the current number of jobs at the project locations. However, SIDA officials told us that they do not compare the estimated number of jobs to be created or retained as stated in project applications to the actual number of jobs reported annually. It is important to perform this comparison as part of the monitoring process to determine whether businesses have met their job creation or retention goals.

#### **Note 2**

Our audit did not include a review of all 67 pending SIDA projects. We reviewed a sample of nine projects. Because two of the businesses did not submit annual job reports, we compared projected and reported jobs created or retained for the remaining seven projects.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

The objectives of our audit were to review SIDA's process for evaluating, approving and monitoring projects and to determine if the Board was administering the Fund effectively. To achieve our audit objectives and obtain valid evidence, we performed the following procedures:

- Interviewed Board members and SIDA officials and staff to understand and assess SIDA's processes and procedures regarding project approval, monitoring project performance, recapture of benefits and the use of Fund money.
- Reviewed SIDA's policies and other documents, including the UTEP and project application, to identify written criteria outlining an applicant's eligibility for sponsorship and the benefits that are available to businesses.
- Reviewed the CBAs SIDA officials received to determine the extent to which these analyses compared the community costs of proposed projects to the expected benefits.
- Compared the present and estimated number of jobs to be created, from initial applications, to the number of jobs currently reported from annual job reports for seven projects. Our sample, initially totaling 15 projects, included all projects that were approved from January 1, 2010 through December 31, 2012. We selected this date range for projects because the executive director and Board members told us that they generally expect businesses to meet their job goals within two years<sup>12</sup> after projects have been completed. Therefore, the businesses with projects completed during our date range would have at least two years to produce the jobs estimated in their applications, as compared to annual job reports as of December 31, 2014. Of the initial 15 projects during this period, six projects were still under construction as of December 31, 2012 and, as a result, did not have two years to achieve their job goals, and two other businesses did not submit job reports for fiscal year ending 2014. Therefore, we reviewed the remaining seven completed projects that received tax exemptions during 2014 totaling approximately \$928,000.
- Reviewed the recapture provision in the UTEP to determine whether it adequately describes the project goals businesses will be accountable for, what constitutes a performance shortfall, the process for recapture and the extent to which benefits may be recaptured.
- Reviewed SIDA's financial statements for fiscal year ending 2014 to determine the amount of Development Fund money potentially payable to the City.
- Reviewed SIDA's financial records and bank statements from December 31, 2010 through July 31, 2015 to determine how SIDA officials used Fund money.

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<sup>12</sup> Businesses that receive tax exemptions under the "Jobs Plus" PILOT schedule, as stated in the UTEP, are given three years from the date the Board adopts the project's Final Approving Resolution to meet their job goals.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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