REPORT OF EXAMINATION | 2020M-70

Jefferson County Industrial Development Agency

Project Approval and Monitoring

OCTOBER 2020

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Contents

Report Highlights

Jefferson County Industrial Development Agency

Audit Objective

Determine whether Jefferson County Industrial Development Agency (JCIDA) officials appropriately evaluated projects prior to approval and subsequently monitored the performance of businesses that received financial benefits.

Key Findings

JCIDA officials did not appropriately evaluate all projects prior to approval or monitor the performance of businesses that received financial benefits. Officials did not:

- Verify an applicant's project information or complete adequate cost-benefit analyses (CBAs) for proposed projects before approving them.
- Charge some project applicants fees in accordance with the Board-approved fee schedule.
- Assess annually reported capital investment and salary information for reliability or compare it to estimates in project applications.

Key Recommendations

The Board should:

- Ensure CBAs adequately compare project costs to benefits and are completed before projects are approved.
- Adopt policies and procedures to ensure application and administration fees are properly calculated and billed.
- Develop procedures to ensure annually reported project performance information is supported by adequate documentation, provided to the Board for evaluation and compared to project goals as stated in applications.

JCIDA officials generally agreed with our recommendations and indicated they planned to initiate corrective action. Appendix B includes our comments on issues raised in the IDA's response letter.

Background

JCIDA is an independent public benefit corporation established in 1971. JCIDA's Board is composed of seven members appointed by the County Legislature and responsible for JCIDA's general management and financial and operational affairs. The Board-appointed Chief Executive Officer (CEO) and Chief Financial Officer (CFO) are responsible for day-to-day operations. JCIDA funds its operations, in part, with fees charged for processing applications and for administering financial assistance.

JCIDA annually reports information for approved projects, including granted tax exemptions, payments in lieu of taxes (PILOT) and project employment.

Quick Facts	
Reported Projects	23
Tax Exemptions Granted	$2.8 million
PILOT Payments	$840,902
Application and Project Administration Fees Collected	$149,714

Audit Period

October 1, 2017 – September 30, 2019.

Project Approval and Monitoring

The purpose of an industrial development agency (IDA) is to promote, develop, encourage and assist in acquiring, constructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreational facilities. The overall goal of an IDA is to advance the job opportunities, health, general prosperity and economic welfare for the people of the State. The powers and duties of IDAs are set forth under New York State General Municipal Law (GML).[1] In June 2016, new legislation became effective to increase the accountability and improve the efficiency and transparency of IDA operations.[2]

According to its mission statement, Jefferson County Industrial Development Agency (JCIDA) was established to advance the job opportunities, health, general prosperity and economic welfare of the people of Jefferson County and to improve their recreation opportunities, prosperity and standard of living. JCIDA offers financial assistance to businesses − including real property, mortgage recording and sales tax exemptions − by generally taking title or entering into lease-leaseback agreements of the property owned or leased by the business.[3] JCIDA facilitates the provision of the financial assistance because the property is tax-exempt under the IDA statute. In return, many projects receiving JCIDA financial assistance promise to create new jobs or retain existing jobs in the community, invest in new buildings or in the renovation of existing buildings, and agree to make annual payment in lieu of taxes (PILOT) payments for affected tax jurisdictions (municipalities or school districts) to help offset the loss of revenues from the tax exemptions provided. Payments are made in accordance with PILOT agreements governed by JCIDA's Uniform Tax Exemption Policy (UTEP).

Before an application is submitted, JCIDA staff typically meet with the applicants to discuss the scope of the proposed project and familiarize the applicant with JCIDA's process, procedures and policies. Once an application is submitted, JCIDA staff review the application to ensure it is complete, determine the type of assistance to be provided to the project and, with the applicant's assistance, will prepare and provide a presentation to the review committee. The review committee will ask questions about the project, review the application and supplemental information and, if the project meets the eligibility criteria in

1 New York State General Municipal Law (GML) Section 858

2 Chapter 563 of the Laws of 2015. For new projects starting June 15, 2016, the law requires standard application forms for requests for financial assistance including company information and a statement that there is a likelihood that the project would not be undertaken without the agency's financial assistance or, if the project could be undertaken without financial assistance, a statement indicating why the project should be undertaken by the agency. This law also requires uniform criteria for the evaluation and selection for each category of projects for which financial assistance is provided, uniform project agreements, annual assessments on project progress including job creation and retention, as well as policies to recapture, suspend or discontinue financial assistance (including the amount of tax exemptions), or modify PILOT agreements.

3 When the IDA enters into a lease-leaseback agreement, property and improvements become an IDA project, and the business typically becomes the project operator.

the UTEP, will recommend the project be approved by the Board. Next, if the project is to receive more than $100,000 in financial assistance, JCIDA holds a public hearing, providing the public with an opportunity to make comments. Last, assuming the project has met all requirements, the Board considers the review committee's analysis and recommendation and comments from the public hearing. The Board then determines whether the project, in consideration of the financial assistance to be provided, is in the community's best interest before approving it.

JCIDA charges a non-refundable fee of $2,500 for all applications submitted. Approved projects are also subject to additional fees − their application and calculation are specified within JCIDA's fee schedule.

How Should the Board Approve Projects?

Tax exemptions provided through IDA lease-leaseback agreements often result in a significant cost to the community. As such, officials must ensure project approval decisions are based on accurate and reliable information. Because project applicants have a significant interest in their projects being approved, IDA officials should verify the material representations made by applicants on their applications by tracing to supporting documentation and reviewing the information for reasonableness.

For projects prior to June 2016, IDAs should, and for subsequent projects, IDAs must, prepare a written cost-benefit analysis (CBA) for each proposed project, comparing the cost of the requested assistance to the intended benefits to the community, to assist in the board's decision to approve or deny a project. The board should use the CBA's results when evaluating a project's eligibility for assistance and to ensure taxpayers receive an adequate benefit.

The overall goal of an IDA is to advance the job opportunities, health, general prosperity and economic welfare for the people of the State. Accordingly, projects are approved because they promise benefits that will fulfill this mission. The goals associated with these promised benefits (e.g., amount of capital investment or number of jobs to be created) should be incorporated into project agreements to ensure expectations are clear and provide accountability if goals are not met. Furthermore, for projects prior to June 2016, IDAs should, and for subsequent projects, IDAs must, incorporate recapture or "claw-back" provisions in project agreements. If project goals are not met, these provisions allow IDAs to recoup previously granted financial assistance or seek other penalties for non-performance such as prohibiting a company from reapplying for financial assistance.

IDAs should also establish procedures to ensure that all fees charged to projects are properly calculated, billed and collected. Fees should be consistent with established fee schedules and independently reviewed and approved prior to billing. The board should document and approve deviations from the fee schedule.

Officials Did Not Verify Applicant Information

When a business applies to JCIDA for financial assistance, it is required to report the intended capital investment associated with the project. This includes the cost of site acquisition, construction, renovations and equipment purchases. The applicant also reports the current number of jobs prior to the start of the project, the estimated number of jobs that will be retained or created upon project completion, and the average salary for all jobs to be retained or created. However, JCIDA officials have not established adequate procedures to ensure the reliability of investment and job information provided on project applications.

JCIDA officials have not established adequate procedures to ensure the reliability of investment and job information provided on project applications.

JCIDA approved 23 projects from 1997 through 2019 that were still active at the end of fiscal year 2019. We reviewed the application files for 10 of these projects that received tax exemptions from JCIDA. Nine of these projects included investment goals on their applications indicating that they would spend a combined total of $114.1 million on project improvements. However, no supporting documentation, such as detailed site plans, construction budgets or contractor estimates, was submitted by seven of the applicants or otherwise obtained by JCIDA staff to verify the reasonableness of these investment goals. In addition, four of these projects had job retention goals stated on their applications. While six projects did not have job retention goals, the four that did promised to retain a total of 630 existing jobs with annual wages totaling $33.3 million. However, the applications did not include documentation to support the retention goals or to enable JCIDA staff to verify this information.

Applicants have a significant interest in their projects being approved. As such, when material information, especially related to investment or job goals, is not or cannot be verified, there is a risk that information is inaccurate and that applicants may obtain exemptions they are not entitled to receive. Furthermore, without verifying existing jobs, the information necessary to measure job creation and retention could be inaccurate. For example, if an applicant understates current job numbers in an application and JCIDA officials do not identify this error, the reported number of new jobs created in future years could be inflated.

When material information is not or cannot be verified, there is a risk that information is inaccurate and that applicants may obtain exemptions they are not entitled to receive.

Adequate Cost-Benefit Analyses Were Not Completed

JCIDA officials did not complete a CBA for all approved projects. Furthermore, when CBAs were completed, officials did not adequately compare project costs to benefits.

JCIDA officials did not complete a CBA for two of the 10 approved projects we reviewed. Both projects received property tax exemptions through lease agreements with JCIDA. In exchange, each project was required to make PILOT payments to the affected tax jurisdictions to help offset the loss of property tax revenues. One project also promised additional benefits to the community through capital investment. However, JCIDA officials did not identify and compare the community costs of each project against the expected community benefits.

JCIDA officials stated that they did not complete a CBA for either project because of the unique nature of the PILOT agreements. Typically, PILOT payments are calculated as a percentage of the real property taxes that would otherwise be owed. The PILOT agreement for one of the two projects, a railroad, specifies that PILOT payments are to be calculated based upon the number of railcars passing through a checkpoint. The PILOT agreement for the other project, an industrial complex, specifies that PILOT payments are to be calculated based upon the complex's occupancy rate.

Because of the unpredictable variables used to calculate each project's annual PILOT payments, JCIDA officials stated they could not estimate the future value of these payments. Therefore, they were missing a key component of their CBA. Lacking this component, JCIDA officials were unable to compute their standard CBA for these projects, which is generated by third-party software. However, if an IDA's standard CBA, because of unique PILOT agreements or other circumstances, cannot be used to evaluate a project, officials should apply an alternative method of comparing a project's costs against its benefits. The railroad and industrial complex projects were approved in 2016, and have received real property tax exemptions totaling $30,819 and $38,111, respectively, through February 2020. By not having a CBA for each project, JCIDA officials did not demonstrate that the approval of these projects, and the subsequent tax exemptions received, were in the taxpayers' best interest.

JCIDA officials completed a CBA for the remaining eight approved projects reviewed. These CBAs generally compared the value of tax exemptions to be provided (the project's cost to the community), against expected community benefits such as the wages of retained or newly created jobs, value of PILOT payments and the amount of sales tax to be generated from the project's capital investment. In addition, the CBAs included the value of indirect benefits to the community, referred to as "spillover" benefits. These benefits are the value of supply chain purchases to be made by local businesses and the wages associated with new jobs created by these businesses, in response to additional sales expected from the project or project's employees. When added to other estimated benefits, these indirect benefits significantly increase each project's total estimated benefit to the community and increase the project's value in comparison to the project's cost to the community.

While JCIDA officials considered the positive impact of proposed projects on local businesses and calculated the indirect community benefits to be derived from this impact, they did not assess the possible negative impact of proposed projects on local businesses or calculate any associated indirect community costs. For example, one of the eight approved projects that had a completed CBA was a restaurant and banquet hall. The CBA for the restaurant had a calculated total community benefit of $797,000. Of this total benefit, $146,000 (18.3 percent) was the value of indirect community benefits expected because of the restaurant's positive impact on local businesses. However, the CBA and JCIDA officials did not consider indirect costs to the community, such as the impact of the proposed restaurant on local existing restaurants that may compete for the same customers and employees.

JCIDA officials did not assess the possible negative impact of proposed projects on local businesses or calculate any associated indirect community costs.

Without considering each project's indirect costs to the community, JCIDA officials cannot adequately weigh the value of these costs against the value of a project's indirect and direct benefits to the community as included in project CBAs. Indirect costs could be significant (e.g., a business that competes with a project loses customers and employees). Therefore, without weighing these costs against a project's benefits to the community, a project may appear to provide a larger net benefit to the community and be more likely to be approved by the Board. Considering the project's indirect costs would have provided a more accurate picture of the actual financial impact on the community.

Project Goals and Recapture Provisions Were Not Always Included in Project Agreements

JCIDA officials did not always ensure that project goals and recapture provisions were included in project agreements.[4] Out of the 10 approved projects reviewed,

4 These include lease-leaseback agreements and, if applicable, PILOT agreements.

nine had investment and/or job retention or creation goals as stated within their applications. However, these goals were not incorporated into agreements despite the Board relying on them as the basis for its decision to approve these projects. In addition, seven of these projects did not include recapture provisions within their agreements. Though these projects were approved prior to June 15, 2016, and were not required to include recapture provisions in their agreements, best practices dictated they be included to allow JCIDA to recoup previously granted financial assistance if project goals were not met. The other three projects were approved after June 2016 and, as required, had recapture provisions included in their agreements.

Without incorporating project goals into agreements, project applicants may not have a clear understanding of which goals they will be held accountable for and to what extent. Furthermore, for the projects without recapture provisions in agreements, the Board's ability to take action, such as recouping previously granted financial assistance or prohibiting a company from reapplying for financial assistance, may be limited in the event that project goals are not met or other intended benefits are not realized.

Project Application and Administration Fees Were Not Always Charged in Accordance With the Established Fee Schedule

JCIDA's fee schedule establishes an application fee and, for projects that are approved, an administration fee. The application fee is $2,500 and is due to JCIDA when a project application is submitted. The fee is non-refundable; however, it is credited toward the administration fee if a project is approved with a PILOT agreement. JCIDA's administration fees vary depending on whether the approved project has a PILOT agreement. For approved projects with PILOT agreements, the administration fee is 2 percent of the first $10 million of a project's cost as estimated in the project's application, 0.5 percent for costs between $10 and $20 million and 0.25 percent for costs in excess of $20 million. For approved projects without PILOT agreements, the administration fee is 25 percent of the value of all tax exemptions received by the project.

We reviewed all fees paid by the 10 approved projects reviewed and found that JCIDA officials did not consistently charge project application fees or develop adequate procedures to ensure administration fees were accurately calculated before being invoiced.

For three projects (30 percent), an application fee was not submitted with the project application. Furthermore, JCIDA officials did not subsequently bill project applicants for these fees, which totaled $7,500 for the three projects. JCIDA officials stated they did not charge an application fee to one project, a railroad with a track spanning multiple counties, because the fee would have been an undue burden to the railroad and in addition to any fees charged by the other county IDAs with whom the railroad also applied to for assistance. An application fee was not charged to a second project, an industrial complex, because the project was to extend an existing PILOT agreement with the industrial complex, as opposed to being an entirely new project. The fee schedule is silent regarding PILOT extensions. Further, although this project was to extend a PILOT, it submitted a new application to JCIDA and JCIDA officials had to review the application and approve the project in the same manner as all other projects. JCIDA officials did not know why an application fee was not charged to the third project, a distribution facility.

In addition, five projects (50 percent) were charged administration fees that were inconsistent with JCIDA's fee schedule. The five projects, in total, were charged $4,195 less in administration fees than what JCIDA was entitled to receive based on the established fee schedule (Figure 1).

Figure 1: Administration Fees

Project Description	According to Fee Schedule	Charged	Difference
Distribution Facility	$149,017	$150,454	$1,437
Warehouse	$44,600	$49,500	$4,900
Restaurant	$16,320	$15,000	($1,320)
Railroad	$13,500	$5,000	($8,500)
Manufacturing Facility	$12,236	$11,524	($712)
Total	**$235,673**	**$231,478**	**($4,195)**

JCIDA officials have not established procedures to ensure administration fees are accurately calculated before being invoiced. When a project is approved, the CFO calculates the administration fee to be charged to the project. However, JCIDA officials do not review the fee calculation and supporting documentation prior to invoicing to ensure the fee is accurate and consistent with JCIDA's fee schedule. In addition, because JCIDA officials did not retain administration fee calculations within project files, they could not explain how the administration fee was calculated on four of the five projects (80 percent). JCIDA officials explained they did not charge the railroad the full administration fee for the same reason they did not charge it an application fee.

JCIDA's fee schedule does not include provisions or procedures for deviating from the Board-established fees and rates. Furthermore, we reviewed Board minutes and resolutions and found no evidence the Board had taken action to waive application fees for the three projects or to discount the administration fee charged to the railroad. If fees are not accurately calculated or collected in accordance with JCIDA's fee schedule, inequities in the way different projects are charged fees may continue to occur and JCIDA may not receive the funds necessary to help support operations.

How Can Officials Monitor Whether Project Goals Are Met?

A board is responsible for establishing a process to monitor and evaluate the performance of companies receiving financial assistance to determine whether they are meeting the goals established in their project applications, such as creating and retaining jobs. The board should clearly define expectations and have policies and procedures to hold companies accountable if expectations are not met.

For projects starting on or after June 15, 2016, the 2015 IDA Legislation requires IDAs to, at least annually, assess the progress of each project that continues to receive financial assistance, toward achieving the investment, job retention or creation, or other objectives of the project indicated in the application. These assessments must be provided to IDA board members. Although projects approved prior to this date were not subject to these requirements, best practices dictate that IDAs implement these processes.

The board should obtain annual performance information from companies, such as capital invested or employment levels, verify the accuracy of that information, and determine whether project goals were met and the community is receiving intended benefits. Additionally, the board should determine whether to exercise agreed-upon recapture provisions if there are material violations of the terms and conditions of project agreements, such as material shortfalls in job creation or retention projections.

Officials Did Not Adequately Monitor Project Performance

JCIDA sends an annual questionnaire to all companies with active projects to obtain information relating to assistance provided and project performance. However, JCIDA officials did not ensure information received was complete and accurate to determine whether projects were achieving the capital investment and job goals as indicated in their applications.

Capital Investment – The amount of capital investment that a business intends to make is included as part of the project application and CBA where applicable. The amount of this investment could eventually impact the assessed value of a project's real property, and directly affects 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 JCIDA officials verify the amount of capital that the project applicants invest to ensure that the actual investment agrees with the amount on the application and in the CBA.

Nine of the 10 approved projects we reviewed included capital investment goals within their applications. These projects were all approved between 2013 and

2019. We reviewed the annual questionnaires submitted by each project since approval and found the following:

- JCIDA officials did not obtain capital investment information for four projects for all years that the projects were active. For example, two projects that were approved in 2013 had no capital investment information obtained for fiscal years ending 2013, 2014 and 2015,[5] while two additional projects approved in 2015 had no capital investment information for the end of that fiscal year. However, JCIDA officials did obtain capital investment information for these four projects for fiscal years ending 2016 and beyond. While these four projects were approved prior to June 15, 2016, and were not required to be assessed annually, best practices dictate an annual assessment would have allowed JCIDA officials to better monitor and determine whether capital investment goals were being achieved.
- Beginning with fiscal year-end 2016, JCIDA began asking for capital investment information on the annual questionnaire. Seven of the nine projects we reviewed were active at the end of 2016, eight were active at the end of 2017 and 2018, and all nine were active at the end of 2019. We reviewed all the annual questionnaires submitted by these projects between 2016 and 2019 and found that JCIDA obtained capital investment information for each active project at the end of each year. This information included the total of any capital investment made during each year,[6] along with a breakdown of the investment by expense category. However, no supporting documentation was submitted with these questionnaires, or otherwise obtained by JCIDA officials, to verify the capital investment amounts reported.
- For all nine projects, the capital investment information received by JCIDA between 2016 and 2019 was not shared with the Board. Furthermore, JCIDA officials have not developed policies or procedures for comparing reported capital investment information to capital investment goals as stated in project applications.

Without verifying reported capital investment information, and without policies and procedures in place to compare verified information to capital investment goals, JCIDA officials may not recognize material shortfalls in the actual amount of capital investment made by projects, and the community may not receive the intended benefits of such investment.

Job Performance – On the annual questionnaire, JCIDA requires companies to report job information including the total number of full-time equivalent (FTE) jobs

---

5 JCIDA's fiscal year ends on September 30.

6 Not all active projects were under construction each year and, as a result, some reported no capital investment spending on annual questionnaires.

at the project location as of the end of the fiscal year, a listing of these FTE jobs by category and an average hourly wage, along with the total annual payroll. Seven of the 10 approved projects had job goals stated in their applications and, as a result, the companies were required to report job information to JCIDA.

All seven projects with job goals were active at the end of fiscal year 2019, and the companies reported job and salary information to JCIDA on the 2019 annual questionnaire as required. Using the information from the questionnaires and project applications, a JCIDA staff member generates a report comparing FTE jobs for each project, as reported at year-end, to the job goals stated in project applications. This report is then shared with the Board so it can determine whether job creation goals are being achieved. However, this report does not include the salary information associated with the FTE jobs reported for each project at year-end. It also does not compare these figures to the annual salary of the jobs that will be retained or created upon project completion as stated in project applications. Furthermore, JCIDA officials have not developed policies or procedures to verify reported job information by comparing it to supporting documentation.

JCIDA officials have not developed policies or procedures to verify reported job information by comparing it to supporting documentation.

We reviewed the job and salary information as reported on 2019 annual questionnaires for the seven projects with listed job goals. We also reviewed any supporting documentation that was submitted by these projects, along with their 2019 annual questionnaire, such as NYS-45[7] payroll tax forms or internal payroll reports, which are required by JCIDA. Two projects submitted documentation that adequately supported both the number of FTE jobs reported at fiscal year-end and the salaries associated with these jobs. However, the remaining five projects (71 percent) did not submit adequate documentation to support their reported job information at year-end. Therefore, we were unable to adequately determine whether these projects were meeting established goals. One project did not submit any documentation to support both the number of FTE jobs reported and the associated salaries, and the remaining four projects did not submit adequate documentation to support reported FTE job and/or salary figures.[8]

For example, one project reported 57 FTE jobs at fiscal year-end 2019 on the annual questionnaire, yet the NYS-45 form submitted as support only listed 47 employees at the project location at year-end. Another project reported 384 FTE jobs on the annual questionnaire. However, the payroll report submitted as support listed 445 employees without making a distinction between full-time and part-time employees. JCIDA officials did not request additional information from these projects to verify the job numbers reported, or additional information from

7 The NYS-45 is the Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return filed by employers with the NYS Department of Taxation and Finance and the NYS Department of Labor.

8 One project was lacking adequate support for both job and salary figures; one was lacking adequate support for salary figures, and two were lacking adequate support for job figures.

any of the other companies that did not adequately support their reported job information.

Without verifying reported job and salary information, and without comparing this information to both the job and salary goals as stated in project applications, the Board's ability to identify job performance shortfalls may be diminished, and the community may not receive the intended benefits from retained or newly created jobs.

What Do We Recommend?

The Board should:

1. Develop procedures to ensure that capital investment and current employment information provided on project applications is supported by adequate documentation.
2. Ensure CBAs adequately compare project costs to benefits and are completed before projects are approved.
3. Ensure project goals, along with recapture provisions, are incorporated into project agreements.
4. Adopt policies and procedures to ensure application and administration fees are properly calculated and billed in accordance with JCIDA's fee schedule.
5. Develop procedures to ensure annually reported project performance information is supported by adequate documentation, provided to the Board for evaluation and compared to project goals as stated in applications.

Appendix A: Response From IDA Officials

Jefferson County Industrial Development Agency

800 Starbuck Avenue, Suite 800
Watertown, New York 13601

ph: 315.782.5865 / 800.553.4111
fx: 315.782.7915

www.jcida.com

July 28, 2020

Chief Examiner Rebecca Wilcox
Office of the State Comptroller
State Office Building, Room 409
333 E. Washington St
Syracuse, NY 13202

Dear Ms. Wilcox:

This letter is a response to the draft audit report recently issued to us by the Office of the State Comptroller. It also constitutes our corrective action plan (CAP) in response to OSC's concluding recommendations in that report.

Although OSC did identify areas for improvement in the JCIDA's project approval and monitoring process, we were pleased that the issues identified were minor and will be easily rectified. However, while we accept the report's recommendations, we believe that some of the statements do not present the entire story. For those instances, we offer the reader an additional perspective.

JCIDA Response to Elements of the Draft Report

Characterization of IDA activities

We do disagree with the statement on page 5 of the draft report, under the heading, *How Should the Board Approve Projects?* The first sentence in that section states, "Tax Exemptions provided through the IDA lease-leaseback agreements often **result** in a significant cost to the community." We recognize this is a standard statement in OSC audits of industrial development agencies, and we understand the intent. As written, however, it mischaracterizes the tax exemptions provided through IDAs and serves to confuse the public.

See Note 1 Page 19

Tax abatements do represent a cost to the community; but that cost does not—and should not—constitute the ***result*** of a tax abatement. The community cost, represented by the tax abatement, is just one input for the cost-benefit analysis of a project. The ***result*** warranting the tax abatement is the net benefit to the community after considering job creation, job retention, and/or capital investment that increases the community's tax base. If the result is a net cost to the community, then we agree the lease-leaseback should not be approved.

Tax abatements are analogous to the furniture or appliance store that offers a "20-percent off" storewide sale. The business is giving up a portion of its regular price to get customers in the store; but the result is still a net increase in sales (i.e. revenue).

1

A more accurate statement by OSC would be something to the effect of the following:

Tax abatements ***represent*** *a significant cost to the community, offered to incentivize job creation and/or capital investment that should properly result in net benefit to the affected taxing jurisdictions.*

OSC Evaluation of Cost-Benefit Analysis

One of OSC's "Key Findings" states that JCIDA officials did not "complete adequate cost-benefit analyses (CBAs) for proposed projects before approving them". However, if one reads further, they will note that only two of the 10 projects reviewed did not receive the JCIDA's standard cost-benefit analysis. OSC is correct in asserting JCIDA officials should then apply an alternative method in such cases. For the benefit of the reader, we wish to explain that JCIDA officials did consider alternative factors, although we admittedly should have better documented those considerations.

See Note 2 Page 19

The two cases cited where standard cost-benefit analyses (CBAs) were not completed include a railroad and the Watertown Center for Business and Industry (WCBI). Before addressing each project individually, let us point out that the tax abatement provided to these two projects each received formal approval from the affected taxing jurisdictions. The JCIDA is unique among IDAs. Whereas most IDAs simply notify the affected taxing jurisdictions when approving a deviation from their normal tax abatement structure, the JCIDA seeks formal approval from the governing bodies of those jurisdictions. Therefore, these projects were vetted thoroughly at open meetings of several taxing jurisdictions prior to receiving JCIDA approval.

Mohawk, Adirondack, and Northern Railroad. This project involved the restoration and rehabilitation of a regional rail corridor, with each of three counties agreeing to the same tax abatement structure for their respective portions of the rail line. The value of the project to the region and to the state of New York was recognized by the state investment of approximately $10 million in grant funding to the project. Rail infrastructure is a key element of the intermodal transportation network necessary to support a healthy business environment. The tax abatement provided by the IDAs from three counties represented the region's partnership with the state in ensuring the continuation of critical rail service to the rural North Country region where such service is lacking. For Jefferson County, maintaining the operation of that line was critical to two large manufacturers in the Village of Carthage. If the railroad was unable to economically maintain its service to the northern end of the corridor, the business from the two Carthage manufacturers would not be enough to sustain the railroad's operation. Without rail service, the cost of shifting to the use of trucks for their raw materials and shipment of product would have seriously impacted those manufacturers and potentially resulted in the loss or contraction of those employers. In hindsight, the JCIDA, as could indeed have done a better job in recording and documenting the above considerations.

Watertown Industrial Center Local Development Corporation (WICLDC). By way of background, this facility is a former industrial complex that was in the process of being abandoned when the former occupant moved operations out of Watertown. The site was destined to become a blighted industrial brownfield site, occupied by vacant, deteriorating structures contributing nothing to the tax base. To avoid that, a coalition of local leaders (including representatives from City of Watertown and County of Jefferson) developed a strategy for redeveloping and repurposing the facility into a multi-tenant incubator maintained and operated by a non-profit local development corporation. A Payment-in-Lieu of Taxes agreement (PILOT) was developed to ensure a reasonable schedule for the facility to contribute productively to the local tax base without impeding its ability to sustain itself.

The age of the facilities and the site's brownfield status create significant challenges. It could not be operated as a for-profit enterprise. Without the PILOT, it would cease to continue operations. It would cease to contribute to the tax base and would become a blighted nuisance to the community. As noted earlier, this project was thoroughly discussed and formally approved by each of the affected taxing jurisdictions (city, school, and county) which recognized these factors. It is also worth noting the structure of the approved PILOT. The PILOT is not designed to grant any sizable tax relief, as payments are based on the full value of the occupied space. It serves only to ensure that the taxable value is consistent with current value in use and to provide the WICLDC consistency when planning for changes in occupancy levels etc. It also simplifies the process of valuation for the city assessor. In addition to its contributions to the tax base, the facility has also provided affordable "incubator" space which has spawned the growth of several businesses over the years that have gone on to increase employment and build their own facilities. Again, as will be addressed in our corrective action plan, we have more clearly documented these community benefits.

Consideration of Indirect Benefits and Costs in Cost-Benefit Analysis

On page 7 of the draft audit report, OSC states that JCIDA officials did not assess the possible negative impact of proposed projects on local businesses. We will respond first to the specific example cited in the report—Turning Point Restaurant & Banquet Hall. Following that, we will address the general issue of indirect costs.

Turning Point Restaurant. In the case of Turning Point we do take issue with OSC's concern that competing businesses might lose employees to the new business. We do not understand the rationale behind this comment. This project is in a community categorized as "highly distressed", and Jefferson County generally has the 2nd highest unemployment in the state. If people leave one place of employment for another, it means the project must have created opportunity for upward mobility. The vacated jobs now provide new opportunity for those unemployed to enter the workforce and to reduce the unemployment rate. We believe that is a good thing.

See Note 3 Page 19

On the other hand, OSC is correct that consideration should be given to the potential loss of customers for competing businesses. Fortunately, the JCIDA board did discuss that issue, although we should have better documented that consideration. It is worth noting that this project was also the recipient of a Restore NY grant, recognizing it as a "destination development project", and therefore more than a simple restaurant/retail project. In drawing more people to the community (by its capacity to host larger events), and by improving the attractiveness of the village's riverfront to attract visitors as they travelled through the community, the project will *increase* customer traffic for surrounding businesses, including those that might otherwise be considered competitors. This belief was also reflected in public comments from the community. members during the project's site plan review. Additional benefits (which *were* documented in the project file) included the adaptive reuse of a vacant and deteriorating building (eliminated blight); consistency with the community's local revitalization plan; and contribution to the municipality's tax base. If left undeveloped, the village also knew it would cost taxpayers $80,000 to $90,000 to demolish the building.

General consideration of indirect costs and benefits. In estimating the net community benefit of a project, the JCIDA's cost benefit analysis tool includes calculations of direct costs, direct benefits, and indirect benefits. To some degree, OSC makes a valid point that the inclusion of indirect benefits should be balanced by the inclusion of indirect costs; but indirect costs are not easily projected or quantifiable. That said, although our model may not quantify indirect costs, it also does not capture all the indirect benefits (Such as the $80,000+ in cost savings to the village by avoiding demolition of the building in the Turning Point project, above). Furthermore, the JCIDA board does not rely solely on the cost-benefit analysis when reviewing projects, as its members also consider potential project impacts such as traffic congestion, noise, smell, and competition with existing businesses—issues that are not quantifiable, but certainly real.

We are not aware of an economic impact model that quantifies the indirect costs of concern to OSC, although we will continue to investigate. In the meantime, we are comfortable with the model we currently subscribe; believing it to be "in the ballpark". It was developed by professional economists with a non-profit research firm specializing in data-driven management support local governments and educational institutions. It complies with industry standards and is used widely across New York State.

Officials Did Not Adequately Monitor Project Performance

As noted by OSC, the amount of capital investment does impact the project's cost-benefit analysis. However, it does not greatly impact the amount of property taxes to be received by the taxing jurisdictions after that project is no longer exempt. Because of the high cost of development in Northern New York, it is very rare that the development of a commercial or industrial project result in real property market value equal to the cost of development. Assessors estimate market value based on size, use, and condition of the facility as compared to similar properties, not what it cost to build the facility.

To verify capital investment, JCIDA staff visit projects while in process and once completed, and often take pictures of the completed projects. However, these visits and photos could be added to the project monitoring file to better document capital investment. We have not previously reviewed receipted expenses to confirm the dollar cost of such investment, though in many cases, experience tells us that final numbers tend to exceed the project budget more often than they come in under budget. We are reluctant to ask for detailed accounting of a project that has clearly been completed as expected; but we will look into a practical method to confirm capital expenditures without creating unnecessary red tape.

It is worth noting that project benefits are directly related to the actual capital investments. The sales tax exemption received, though capped, is based on the actual expenditures. If the project costs are less than projected, the sales tax exemption amount is reduced proportionately. Sales tax information is confirmed by JCIDA staff through the annual collection of ST-340 forms. Likewise, the mortgage recording tax is based on the actual mortgage amount. Again, if less than projected, the benefit is less as well.

See Note 4 Page 19

JCIDA Corrective Action Plan

As noted earlier, we acknowledge that OSC did identify areas for improvement in the JCIDA's project approval and monitoring process. We do not dispute the report's recommendations. We believe most of the issues identified are minor and will be easily rectified.

This section outlines our corrective action plan for implementing OSC's recommendations. Each of the 5 recommendations is restated below, followed by the action plan for that item. All actions will be implemented immediately.

1. **Develop procedures to ensure that capital investment and current employment information provided on project applications is supported by adequate documentation.**

   ACTION: The JCIDA already requests documentation of employment numbers as part of its annual monitoring for approved projects. To implement the above recommendation, the JCIDA will require a copy of that same documentation—the Form NYS-45 or internal payroll reports—as part of the application to confirm the number of existing jobs. Regarding projected capital investment, the JCIDA will also require documentation (such as a copy contractor estimates) as part of the application for assistance. Applicants would have based their application on such estimates, so requesting a copy should not create a significant burden.

2. **Ensure CBAs adequately compare project costs to benefits and are completed before projects are approved.**

   ACTION: It is clear from OSC's review, that the JCIDA should more clearly document the basis for project approval, especially to demonstrate its consideration of qualitative impacts (both pro and con) not included in the quantitative cost-benefit analysis. This will involve the simple addition of a single sheet of paper to the project file summarizing both the quantitative and qualitative factors considered in that approval.

   Upon receiving OSC's draft report, we have already made several inquiries, but have yet to find a model that would quantify indirect costs to OSC's satisfaction. Part of the challenge appears to be that costs mean two very different things to economists and accountants.

5

For now, the JCIDA stands behind its current cost-benefit analysis tool, which quantifies economic benefits and costs of a project using industry standard practices and measures. We believe our intent to better document all of the factors considered and discussed in project approval, as proposed above, will be a key improvement.

3. **Ensure project goals, along with recapture provisions, are incorporated into project agreements.**

   ACTION: The JCIDA's recapture policy has historically been clearly stated in the project application. Moving forward, those provisions and project goals will also be incorporated into project agreements.

4. **Adopt policies and procedures to ensure application and administration fees are properly calculated and billed in accordance with JCIDA's fee schedule.**

   ACTION: The worksheet used to calculate project fees will be made part of the project file and will be made part of the project review materials presented to the board of directors. Any approved deviations from the normal fee calculation will clearly explained on the worksheet.

5. **Develop procedures to ensure annually reported project performance information is supported by adequate documentation, provided to the Board for evaluation, and compared to project goals as stated in the application.**

   ACTION: As noted by OSC, the JCIDA already captures year-end job performance, salary information, and capital investment, although only the job numbers are reported to the board. JCIDA staff will include the additional information collected in all future reports to the board. Staff will also ensure that reported job numbers are verified by an accompanying NYS-45 payroll tax form and/or by internal payroll reports. Site visits to completed projects will be documented to verify completion of the capital investment along with whatever other available documentation may be available.

In closing, although our perspective differs on some of the issues raised in OSC's audit, we are generally satisfied with the overall report and its recommendations. We would also like to commend the professionalism, integrity, and cordiality displayed by OSC's auditors while conducting their review.

Respectfully yours,

Donald C. Alexander
Chief Executive Officer

Appendix B: OSC Comments on IDA Officials' Response

Note 1

The tax exemptions we refer to as significant costs to the community include the sales, mortgage recording and real property tax exemptions received by companies less the PILOT payments made by the companies. In fiscal year 2019, JCIDA reported that its sponsored active projects received net tax exemptions valued at $1.9 million. Our report also acknowledges that many projects that receive these tax exemptions offer benefits to the community such as job creation and retention and private sector capital investments in new and existing buildings. Project costs must be compared to project benefits when evaluating a project's eligibility for assistance and to ensure taxpayers receive an adequate net benefit.

Note 2

The Report Highlights section of our report accurately reflects the key findings related to our audit objective. Our audit found that a CBA was not completed for two of the 10 approved projects we reviewed and, when CBAs were completed, they did not adequately compare project costs to benefits.

Note 3

As acknowledged in the report, indirect costs could be significant. Without considering these costs, one cannot adequately weigh the value of these costs against the value of a project's indirect and direct benefits to the community. In addition, if a business is competing with a project and loses customers and employees, it may be difficult for that business to provide new opportunities for those unemployed by the vacated jobs due to lost revenues resulting from the competing project.

Note 4

While sales and mortgage recording tax exemptions granted to companies are proportionate to the actual value of associated project expenses, other tax exemptions (i.e., from real property taxes), are not directly adjusted based upon how closely project goals, including the level of capital investment, are achieved. As a result, project performance should be monitored to determine whether goals are being achieved and the community is receiving the intended benefits.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed JCIDA officials and reviewed JCIDA's UTEP, application, fee schedule, annual project questionnaire and reports to the Board to gain an understanding of the project approval, monitoring and fee collection process.
- We identified all 23 projects, approved from 1997 through 2019, that were still active (receiving benefits) as of September 30, 2019.
- We used our professional judgment to select a sample of 10 of the 23 active projects because they were the 10 most recently approved that had received tax exemptions from JCIDA.
  - We reviewed the application file for these 10 projects to determine whether the application was complete and whether material assertions on the application were supported with appropriate documentation.
  - We reviewed whether project goals and recapture provisions were included in project agreements and applications.
  - We reviewed whether a cost-benefit analysis was completed for each project to determine whether the project's costs were adequately compared to benefits.
  - We reviewed whether application and administration fees were properly charged and applied in accordance with fee schedules.
  - We compared the names of JCIDA officials with project documentation to identify any potential conflicts of interest and reviewed financial disclosure forms.
  - We reviewed the annual questionnaires submitted to determine whether JCIDA officials obtained adequate project performance information from all projects such as job and salary information, verified reported information by reviewing supporting documentation, compared reported information to project goals as stated in project applications and provided reported information to the Board.
  - We compared approved sales tax amounts on ST-60 forms to actual exemptions reported on the annual questionnaires to determine whether any project exceeded its approved exemption amount.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.

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.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. 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 the CAP available for public review in the CEO's office.

Appendix D: Resources and Services

Regional Office Directory
www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas
www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems
www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management
www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans
www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders
www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller
www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers
www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics
www.osc.state.ny.us/local-government/academy

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/local-government

Local Government and School Accountability Help Line: (866) 321-8503

SYRACUSE REGIONAL OFFICE – Rebecca Wilcox, Chief Examiner

State Office Building, Room 409 • 333 E. Washington Street • Syracuse, New York 13202-1428

Tel (315) 428-4192 • Fax (315) 426-2119 • Email: Muni-Syracuse@osc.ny.gov

Serving: Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence counties

Like us on Facebook at facebook.com/nyscomptroller
Follow us on Twitter @nyscomptroller