DIVISION OF LOCAL GOVERNMENT AND SCHOOL ACCOUNTABILITY

REPORT OF EXAMINATION | 2020M-139

City of Glen Cove Industrial Development Agency

Project Approval and Monitoring

JULY 2021

OFFICE OF THE NEW YORK STATE COMPTROLLER
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Contents

Report Highlights

City of Glen Cove Industrial Development Agency

Audit Objective

Determine whether the City of Glen Cove Industrial Development Agency (GCIDA) Board of Directors (Board) and officials properly approved and monitored projects with appropriate and measurable goals and took action when goals were not met.

Key Findings

The Board and officials did not properly approve and monitor projects or take action when goals were not met. We also found:

- Required Annual Financial Disclosure Statements that are meant to help identify conflicts of interest were not filed.
- Payments in lieu of taxes (PILOTs) billing and collections were not monitored or correctly allocated to affected taxing jurisdictions (ATJs).
  - 52 of 115 payments were late and late fees totaling $259,303 were not billed or collected.
- Nassau County (County) received $375,914 more than it should have. These funds should have been paid to the City of Glen Cove (City), $75,039, and to the school district and library, $300,875.
- Tax exemptions disclosed in audited financial statements were overstated.

Key Recommendations

- Each Board member and official should complete and file an annual financial disclosure statement.
- Monitor PILOT billings and collections to ensure payments are received timely and that penalties and late fees are assessed when appropriate.
- Allocate PILOTs proportionately to each ATJ based on the amount of real property tax that should be paid to that jurisdiction.

Although GCIDA officials disagreed with certain aspects of our findings, they generally agreed with our recommendations. Appendix B includes OSC's comments on issues raised in the IDA's response.

Background

The GCIDA is an independent public benefit corporation established May 17, 1974, at the request of the City.

During our audit period, the GCIDA's Board was composed of five members, including the City's Mayor, who is responsible for appointing the other four. The Board-appointed executive director and chief financial officer (CFO) are responsible for day-to-day operations including monitoring project goals. In addition to the executive director, GCIDA legal counsel reviews project applications to ensure compliance with policy before a transaction committee recommends approving projects.

The GCIDA reports information for approved projects annually. The 2017 and 2018 reports include 10 projects approved between 2001 and 2017.

Quick Facts	
Number of Active Projects	10
Total Full-Time Equivalent (FTE) jobs retained (2018)	387
Total Annual PILOTs (2018)	$5.3 million
Total Real Property Tax Exemptions (2018)	$8.2 million

Audit Period

January 1, 2017 – September 30, 2019

Project Approval

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 GCIDA was established to advance the economic welfare of the community by job creation and economic activity for the citizens of the City of Glen Cove. The GCIDA offers financial assistance to businesses in the form of mortgage recording, sales and real property tax exemptions, by taking title or entering into lease-leaseback agreements[1] for the property owned or leased by the business, facilitating the provision of the financial assistance as the property is tax-exempt under the IDA statute. Payments are made in accordance with PILOT agreements or master tax agreements governed by the GCIDA's Uniform Tax Exemption Policy (UTEP) (updated June 30, 2016). The executive director and legal counsel review project applications for compliance with the policy and distribute a copy of the application summary to the transaction committee[2] for preliminary review and consideration. The committee communicates with the Board through informal discussions making a verbal recommendation to approve or deny the project.

The GCIDA was established to advance the economic welfare of the community by job creation and economic activity for the citizens of the City of Glen Cove.

In June 2016, legislation[3] became effective to increase the accountability and improve the efficiency and transparency of IDA operations. For projects starting after June 15, 2016, the law requires standard application forms for requests for financial assistance, 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. As a result, to ensure compliance, on January 10, 2017 the GCIDA adopted a uniform criteria for evaluating and monitoring projects (uniform criteria) and updated its formal application.

The GCIDA has 10 active projects approved between 2001 and 2017, which include: two affordable housing complexes, two apartment complexes, a memory care facility, a movie theatre, an office sharing commercial space, a storage facility, a retail/residential mixed-use property and a waterfront mixed-use development. Of these 10 projects, three were approved after the new legislation became active.

1 In a lease-leaseback agreement, the IDA takes possession of the project's property. With the ending of the project term, its exemption from property taxes ceases and it is usually returned to the tax roll.

2 The Transaction Committee consists of the executive director, the CFO (as alternate to the executive director), the Board Chairman and legal counsel.

3 Chapter 563 of the Laws of 2015. We included portions of the new legislation where applicable to our objectives and findings.

How Should the Board Approve Projects?

Tax exemptions provided through the IDA lease-leaseback agreements often result in a significant cost to the community. For projects approved since June 2016, IDAs are required to - and for projects prior to that date, IDAs as a best practice should - consider a project's merits and develop uniform project evaluation criteria. The criteria should be consistently applied when making project selection decisions for the same type of projects. IDAs must establish a UTEP, with input from ATJs, to provide the Board with detailed guidelines for claiming real property, mortgage recording and sales tax exemptions. The UTEP must include the types of projects for which exemptions can be claimed, procedures for PILOTs, instances in which real property appraisals are to be performed as a part of an application for tax exemption and procedures for deviation from the UTEP to provide a mechanism to offer exemptions on a consistent basis. When PILOTs are not standardized as described in New York State Real Property Tax Law (RPTL) 485-b, it is considered a "deviation" because the IDA plans to use some other methodology to determine the PILOT. As such, all ATJs that will receive the PILOTs must be formally notified of the IDA's intent to deviate so there is an opportunity to ask questions and express concerns.

Moreover, IDAs are required to develop, adopt and use a standard application that includes the estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance is granted. An assessment is required of all material information included in connection with the application.

Finally, as part of the process for approving or denying financial assistance to project applicants, a board should have a mechanism to determine whether any IDA officials would have financial interest in the potential project. Board members and officials should complete and file financial disclosure forms which demonstrate that the IDA's selection of projects does not create the appearance of impropriety.

The Board Did Not Address All New Reform Requirements for the UTEP and the Uniform Criteria

The Board adopted a UTEP in June 2016. However, officials did not obtain input, or retain evidence, that they requested input from ATJs[4] when preparing or revising the UTEP. Furthermore, the UTEP does not address all new requirements in the 2016 reform law. It does not indicate the types of projects for which exemptions can be claimed, include procedures for PILOTs and outline the instances in which real property appraisals are to be performed as a part of

4 ATJs are the following: City of Glen Cove, County of Nassau, Glen Cove City School District and Glen Cove Public Library.

an application for tax exemptions. The policy also lacks detailed procedures for deviation from the UTEP, indicating only that letters must be sent to ATJs.

The Board did not adopt and officials did not implement a uniform criteria by the effective date of the new legislation. Instead, GCIDA's uniform criteria was adopted on January 10, 2017, seven months after the effective date of the legislation. Further, once adopted, the Board did not ensure compliance with the uniform criteria.

The executive director and CFO could not explain the shortfalls in the UTEP. The GCIDA's legal counsel stated that all GCIDA PILOTs deviate from the UTEP because the UTEP was modeled after a much larger IDA's UTEP that has standardized PILOTs governed by RPTL, but because the GCIDA is smaller, all PILOTs are negotiated individually.

The Executive Director Did Not Properly Review Applications

The GCIDA's uniform criteria requires the executive director to prepare, prior to the Board meeting, internal forms and summaries, including a form documenting the staff review of an application. This information should be delivered to Board members one week in advance of the meeting.

The staff review section of the application form has spaces to capture the date and name of the project and includes criteria such as applicant information, project description, project team and estimated value of requested benefits. It requires a recommendation on whether there is a reasonable basis for the GCIDA to provide financial assistance to the proposed project.

Along with the uniform criteria, the GCIDA also developed a standard application form in January 2017 to comply with the reform legislation. Three of the 10 active projects were approved after the new legislation went into effect and were subject to compliance with the uniform criteria and standard application. The executive director did not prepare a staff review form for the three applications, nor any other requisite internal forms and summaries that document the basis for which financial assistance was provided. The executive director stated that she reviewed the applications before they went to the transaction committee for discussion, but did not document her reviews.

Despite the directive in the uniform criteria to prepare the form attached to the criteria as Exhibit A, their legal counsel and the executive director both said that documentation of the application review is not required, and the staff review form included as an exhibit in the criteria is meant to just be a guideline.

One of the three applications, a retail/residential mixed-use complex project, approved by the GCIDA on August 22, 2017, failed to quantify an average or range of fringe benefits as required. The application listed a total salary projection of $750,000 to $795,675 but did not indicate whether fringe benefits were included in that amount. The fringe benefits section of the form was left blank. Although the applicant left portions of the application blank, the project was still recommended for approval without obtaining the required information.

The executive director could not explain why the application was approved without the required information. The GCIDA's legal counsel stated because the City is a small geographic region, it is not always practical to request this information but indicated that this application did not include the estimate of fringe benefits because the GCIDA usually commissions an economic impact report that considers these items. We did find an economic impact report was prepared for this project in 2017 and updated in 2018, both addressing matters such as PILOT allocations to ATJs, sales and mortgage tax exemptions, the number of jobs and amount of earnings and the amount of household spending. However, the reports did not include information regarding the missing fringe benefit figures.

Because staff and officials did not complete the staff review section of the application form, or any other requisite internal form or summary to document the application review process, there is nothing to support the basis for the GCIDA providing financial assistance for each of the approved projects. Further, the approval of incomplete applications results in the public not having full transparency about the benefits a proposed project will have in their geographic area.

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Board Members and Officials Failed To File Financial Disclosures

The GCIDA's bylaws require all Board members to file annual financial disclosure statements with the County Board of Ethics. The bylaws also require employees and officers to file annual disclosure statements to the extent required by the Board's rules.

None of the five GCIDA Board members filed the annual financial disclosure statements with the County Board of Ethics in either 2017 or 2018. The Board has also not enforced any requirement for IDA officials to file annual financial disclosure statements or disclose interest in businesses applying for financial assistance. The executive director and the CFO have never filed annual financial disclosure forms with the County Board of Ethics.

Officials told us that the GCIDA code of ethics requires them to disclose any conflicts before they take the oath of office. However, because the Board consists of volunteers, officials did not think it needed such a formal manner. Officials also told us that the applications submitted by project owners include a question about relationships with the agency and a detailed explanation for any relationship indicated. But, without a process in place to properly review applications, it is not clear that responses to these questions would be noted. The executive director and two Board members indicated that they discuss potential conflicts of interest prior to the initial Board meeting vote on a project so that Board members who may have conflicts can recuse themselves.

We reviewed all 10 projects applications and determined that two of the applicants answered a question that specifically asked if there was a “conflict of interest” while the other eight project applications answered a question that asked if there was a “relationship” with the IDA. Three applicants disclosed relationships with the GCIDA that included a previous sale of land, bonds issued and having another active project. The other seven indicated that they had no relationship with the GCIDA. While this provides some assurance that there may not be any conflicts of interest between applicants and the GCIDA, it does not explicitly ask applicants to disclose financial relationships with Board members or individuals working as GCIDA officials. In addition, the application does not require officials to disclose financial interest in businesses applying for financial assistance, because only the applicant completes the form.

Officials believed the question on the project application form was sufficient to ensure no conflicts of interest and therefore did not file required financial disclosure statements. Because annual financial disclosure statements were not filed, there is no assurance that officials are financially independent when making decisions about projects. As a result of our discussion with officials, a conflict-of-interest form was developed and approved by the Board on February 11, 2020.

Because annual financial disclosure statements were not filed, there is no assurance that officials are financially independent when making decisions about projects.

What Do We Recommend?

The Board should:

1. Obtain input from ATJs for future UTEP revisions and retain all documentation of such input, or evidence that input was requested and not provided.

2. Update the UTEP to include the types of projects for which financial assistance will be considered, procedures for PILOTs, procedures for deviation and outline instances when real property tax appraisals are to be performed.

3. File annual financial disclosure forms and require all IDA officials to do the same.

Officials should:

4. Ensure they are keeping requisite internal forms, summaries and staff reviews of applications on file for all project applications.

5. Ensure applicants complete the application in its entirety, including providing an average or range of fringe benefits in compliance with the Law.

6. Collect annual financial disclosure statements from each Board member, official and employee and file them, as stipulated in the bylaws.

Project Monitoring

How Can Officials Monitor Whether Project Goals Are Met?

For projects starting on or after June 15, 2016, each project owner, occupant or operator receiving financial benefits must provide an annual certified statement enumerating the FTE jobs retained and created as a result of the financial assistance, by category. The statement must indicate that the salary and fringe benefit averages or ranges for categories of jobs retained and created provided in the application are still accurate and, if not, provide revised lists of salary and fringe benefit averages or ranges.

In addition, the GCIDA's uniform criteria authorizes staff to conduct audits, inquiries, investigations and inspections (including, without limitation, on-site investigations) of each project as necessary or desirable to ensure compliance with applicable laws and GCIDA policies and procedures. All monitoring efforts should be documented in writing.

IDAs that use PILOTs must enter into written PILOT agreements. The PILOTs should be allocated among ATJs in proportion to the amount of real property tax and other taxes which would have been received by each ATJ had the project not been tax exempt due to the IDA's status. PILOT agreements should contain the amount due annually to each ATJ, the dates when payments should be made, and the date when payments should be considered delinquent if not paid. Delinquent PILOTs should be subject to a late payment penalty of 5 percent of the amount due. For each month, or part thereof, that the PILOT is delinquent beyond the first month, interest should accrue and be paid to the ATJ on the total amount due plus a late payment penalty in the amount of 1 percent per month until the payment is made. If invoicing and collection of PILOTs are done by another entity, the IDA should have procedures to monitor invoicing to ensure the due dates and the amounts billed are accurate, as well as ensure that late penalties and interest are charged to project owners making late payments.

Finally, the IDA should develop policies outlining the circumstances which may lead to the suspension or modification of the PILOT agreement or discontinuance of financial assistance. The uniform criteria describes the process that the GCIDA should take if a project is in violation of its agreement. The process includes steps such as notifying the company, giving the company time to cure non-compliance and seeking additional information from the company about the reasons for non-compliance. Upon review of the facts related to non-compliance, the GCIDA can, among other things, consider the matter closed, set a specific time period for the company to achieve compliance and enter into an amendment of the terms granting financial assistance.

Officials Failed to Collect Annual Certified Statements

The GCIDA had 10 active projects at the end of its fiscal years 2017 and 2018. Officials obtained annual certification statements with supporting payroll documents for two of the 10 projects, a waterfront mixed-use development and a retail/residential mixed-use complex, both owned by the same company.

The executive director explained that these annual certified statements were not submitted as a result of GCIDA's policy. Instead, the statements were developed as a part of the negotiated agreements for the waterfront development project approved by the GCIDA in June 2016 and then simply reused by the project owner for the retail/residential mixed-use complex project which was approved in August 2017.

Officials failed to obtain annual certified statements for the remaining eight projects in both years, instead relying on emails with no support. The emails did not provide sufficient information to determine whether the goals for retained FTE jobs, salaries and fringe benefits met the amounts projected in lease agreements. The CFO and executive director both said they were unaware that they were required to collect annual certified statements for each active project receiving financial assistance.

Officials failed to obtain annual certified statements for the remaining eight projects in both years, instead relying on emails with no support.

Without annual certified statements enumerating the FTE jobs retained and created and the salary and fringe benefit averages or ranges for categories of jobs retained and created as a result of the financial assistance, the Board cannot be certain that projects are meeting the agreed-upon goals. Further, without this information, the Board cannot determine if continued financial assistance is warranted.

Officials Did Not Monitor Compliance With Written Agreements

Although authorized in the uniform criteria, GCIDA officials conducted no audits or inquiries to monitor compliance with the written agreements. In addition, during fieldwork, the executive director stated that she conducts on-site visits for active projects that are under construction and provides verbal status reports at Board meetings, but she does not document the visits and there is no record of the verbal updates provided in the Board minutes. However, after the exit conference, the executive director provided minutes from weekly site coordination meetings she attended at the waterfront project during 2017 and 2018 which she indicated served as the basis for the updates provided to the Board. These documents were prepared by the waterfront property developers but included the executive director's handwritten notes. They were not provided during the fieldwork phase, nor were these details documented in the official GCIDA Board minutes under "Executive Director's Report." The executive director indicated that she misunderstood what the audit team was asking for, which is why she did not provide the documents until after seeing the written report. Additional documents were also presented that show the executive director attended a business council meeting on-site at another project location and took a tour at a third project location. These were the only on-site visits for those two projects. There were no on-site visits for the remaining seven projects. The executive director and CFO both said they believed that on-site visits were not necessary due to the GCIDA's small geographic area and how easy it is for GCIDA and City officials to obtain a project's status during the normal course of business.

We reviewed the minutes from 16 Board meetings held during the period January 1, 2017, through September 30, 2019, and found references to an "Executive Director's Report" in 14 of the 16. However, due to lack of details, or any other supplemental notes, we were unable to determine what information was reported. For example, the February 13, 2018, meeting minutes state simply that the executive director provided the Board with a brief update on current projects but included no specific details on the project updates discussed nor any indication whether there were audits, inquiries, investigations or on-site inspections completed to monitor compliance with written agreements.

Had officials monitored projects in accordance with their uniform criteria, they would have identified seven of the 10 active projects had default events (see below) that were not in compliance and could have warranted discontinuing financial assistance or other penalties.

PILOT Billing and Collections Were Not Monitored by Officials

Nine project owners have PILOT agreements with the GCIDA and one project owner has a master tax agreement.[5] These written agreements include the amounts due annually, the dates on which payments should be made and the dates on which payments will be considered delinquent if not paid along with applicable penalties and interest. Nine of the 10 project agreements included recapture clauses.[6] Each agreement noted that the occurrence and continuance of any event constituted a recapture event.

We identified recapture clauses for each of the nine projects using the transaction documents[7] and determined whether default events occurred which would warrant the suspension or discontinuation of benefits. Seven projects had default events. Four of the seven projects required written notices of default. Three projects experienced formal default events in 2017 and 2018, namely late remittance of

We identified recapture clauses for each of the nine projects using the transaction documents and determined whether default events occurred which would warrant the suspension or discontinuation of benefits.

5 PILOT agreement, lease and project agreement in one document

6 One project, a memory care facility, is tax exempt without the assistance of the GCIDA, and it does not receive any benefits that could be recaptured by GCIDA.

7 Lease, sublease, PILOT agreement and master tax agreement

PILOTs. All projects eventually remitted PILOTs due. Because officials failed to monitor PILOT invoicing and collections, they failed to take any of the allowable actions from their uniform criteria in any of the instances.

Between January 1, 2017, and December 31, 2018, the City of Glen Cove (City) sent 40 invoices to nine[8] project owners. Seventeen of the 40 invoices for seven of the nine projects were invoiced on January 3, two to 12 days after the first payments were due.[9] For example, an invoice sent to a storage facility project owner was dated January 3, 2017, and identified the payment due date as January 1, 2017, two days prior to the date of the invoice. However, the actual due date per the PILOT agreement was December 23, 2016, 11 days prior to the date of the invoice.

The City collected 115 payments totaling $13.6 million in 2017 and 2018. Fifty-two payments, totaling $3.9 million, from nine projects were paid between one and nine months after the due dates in the agreements. However, because officials were not monitoring billing and collections, these late payments went unnoticed resulting in $259,303 ($138,380 in 2017 and $120,923 in 2018) in unbilled and uncollected late payment penalties and accrued interest. For example, an affordable housing complex owed PILOTs to the County (bi-annual payments totaling $7,265) with two installments on December 22, 2017, and June 25, 2018, and to the City (bi-annual payments totaling $13,736) with two installments due May 25, 2018, and November 26, 2018. The project owner made a single payment of $21,001 on September 28, 2018, to cover PILOTs owed to both the City and County, which resulted in three of the four payments being between three and nine months late.

…late payments went unnoticed resulting in $259,303 ($138,380 in 2017 and $120,923 in 2018) in unbilled and uncollected late payment penalties and accrued interest.

Furthermore, the same project was invoiced on January 1, 2018, and June 1, 2018, for the school district/library (bi-annual payments totaling $30,999) when the correct due dates were July 25, 2018, and January 25, 2019. Although the project was invoiced well in advance of actual due dates, providing the project owner additional time to make the payments, a $30,999 payment was made on September 28, 2018, two months after the July 25, 2018, due date for the first half. This project owner paid five of 12 PILOT payments late (see Figure 1), which should have resulted in $2,750 late payment penalties and accrued interest.

8 The tenth project, a retail/residential mixed use complex, is not required to pay PILOTs until the 2019-20 fiscal year.

9 The payments were generally due five business days prior to January 1.

Figure 1: Affordable Housing Complex Due Dates from Invoices vs. Due Dates per PILOT Agreement and Actual Payment Dates

Municipality	Reported Year	Due Date from Invoice	Due Date per PILOT Agreement	Actual Payment Date	Late Payment
County	2017	1/1/2017	12/23/2016	1/23/2017	X
	2017	6/1/2017	6/26/2017	6/1/2017	
	2018	1/1/2018	12/22/2017	9/28/2018	X
	2018	6/1/2018	6/25/2018	9/28/2018	X
City	2017	1/1/2017	5/25/2017	1/23/2017	
	2017	6/1/2017	11/24/2017	6/1/2017	
	2018	1/1/2018	5/25/2018	9/28/2018	X
	2018	6/1/2018	11/26/2018	9/28/2018	
School District/Library	2017	1/1/2017	7/25/2017	1/23/2017	
	2017	6/1/2017	1/25/2018	6/1/2017	
	2018	1/1/2018	7/25/2018	9/28/2018	X
	2018	6/1/2018	1/25/2019	9/28/2018	

The City Treasurer stated the incorrect dates she used when preparing the invoices came from a spreadsheet prepared by a former City Controller. She said she did not confirm the accuracy of the dates against the project agreements. The CFO and executive director both said they were unaware they needed to monitor the billing and collections to ensure agreements were being followed.

In addition, GCIDA officials did not monitor billing and collections to ensure accuracy per PILOT agreement amounts, timely receipt and the application of appropriate penalties and interest when warranted. As a result, City officials did not correctly invoice projects, did not charge penalties and interest for delinquent payments, and the ATJs did not receive $259,303 in late payment penalties and accrued interest in 2017 and 2018.

PILOTs Were Not Allocated Correctly Among Affected Taxing Jurisdictions

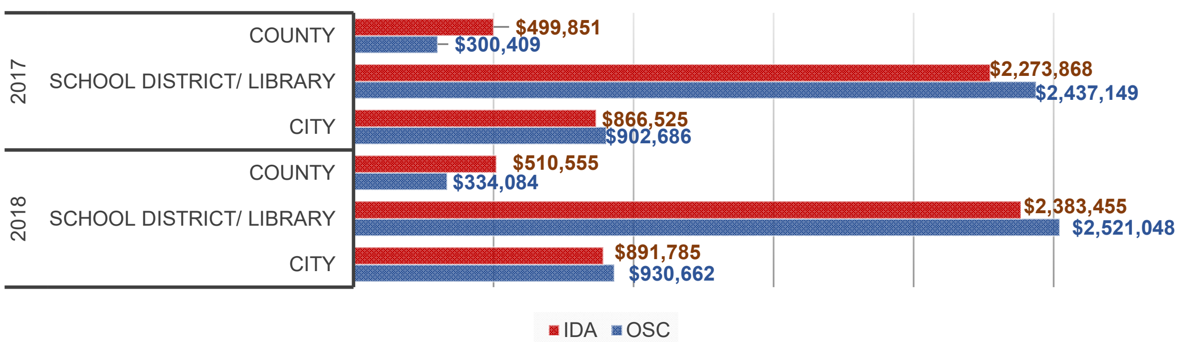
PILOT agreements indicate that payments should be allocated among the ATJs in proportion to the amount of real property tax that would have been received if the project was not tax exempt. Officials should monitor project PILOT allocations to ensure each ATJ is receiving the correct proportion per year as required by PILOT agreements.

City officials are tasked with calculating allocation percentages for PILOTs and remitting them to the ATJs as such. However, the GCIDA has no procedures in place to ensure PILOTs collected are being accurately paid to each ATJ. Eight of the nine[10] projects with PILOTs in 2017 and 2018 made payments that were allocated to the ATJs based on percentages calculated by a City official.

We reviewed all eight projects to determine whether the remitted PILOTs were correctly allocated among the ATJs. We calculated allocation proportions using the real property tax amounts that would have been due in 2017 and 2018 to each ATJ as a percentage of the total real property tax for those years.[11] We determined that the schedules used by the City were never adjusted in years subsequent to the PILOTs' first year to correspond to the changing City and County tax rates and assessments. Consequently, PILOTs remitted were not correctly allocated to each ATJ (see Figure 2).

FIGURE 2

PILOT Allocations - GCIDA and OSC 2017 and 2018



The City Treasurer said she used a schedule prepared by the former City Controller as the source for how much was allocated to each jurisdiction. She did not confirm the accuracy of the percentages calculated by the former City Controller. The CFO and executive director both said they were unaware they needed to review PILOT allocation percentages to ensure ATJs were receiving the PILOT amounts they were entitled to, based on approved agreements.

10 The ninth project, the waterfront mixed-use project, has fixed amounts allocated to ATJs stipulated in a master tax agreement. Each ATJ agreed to forego proportionate allocations and accept fixed amounts.

11 For example, the County proportion was calculated as the real property tax due to the County divided by the total real property taxes due to the County, City, school district and library.

Because IDA officials did not monitor invoicing and PILOT collections, City officials incorrectly calculated PILOT allocations without detection. Consequently, the County received $375,914 more than it was entitled to, while the City and the school district and library received less than they were entitled by $75,039 and $300,875 respectively, impacting their available revenue.

How Can Officials Promote Transparency to the Public?

IDAs must prepare financial statements and have them audited by an independent certified public accountant within 90 days following the close of its fiscal year. Among other things, the audited financial statements should include the name and address of each owner of each project. Copies of the audited financial statements should be transmitted to the New York State Commissioner of the Department of Economic Development, the Office of the New York State Comptroller and the Glen Cove City Council for whose benefit the agency was created, within 30 days of completion. In addition, the most recent annual financial reports must also be made accessible to the public. Therefore, the Board should accept the audited financial statements timely. Lastly, the IDA should disclose real property tax exemptions granted to active projects in the financial statements.

Officials Did Not Disclose All Required Information in Audited Financial Statements

The GCIDA released audited financial statements for 2017 and 2018. The statements included other supplementary information that discussed, among other things, PILOTs, FTE jobs created and retained, and amounts of tax exemptions granted for each active project. Although the financial statements generally included the names of the 10 project owners, the owners' addresses were not included in either 2017 or 2018 financial statements, as required.

Further, officials did not transmit the audited financial statements to the Commissioner of the Department of Economic Development, the State Comptroller or the Glen Cove City Council. The CFO stated that when the audited financial statements are released, she provides a printed copy to the GCIDA Board members and posts it on the website but does not send it to any other agency. She was not aware of the requirements to include the project owners' addresses and did not know it needed to be transmitted to the Commissioner of Economic Development, the State Comptroller and the City Council.

The GCIDA's website includes a copy of the 2017 and 2018 audited financial statements; however, there is no evidence in the 2017 Board minutes to indicate that the Board received the 2017 annual report. The October 22, 2019 Board meeting minutes indicate the Board approved the 2018 report, 209 days after the report was prepared. Three Board members told us they received the annual report for review for both years.

Although accessible to the public on the GCIDA website, officials' failure to send the annual report to the required State agencies and the City Council, and the failure to ensure all required information was included in the reports, led to less than ideal transparency because complete information was not available to users of the financial statements.

Various errors in the calculations caused real property tax exemptions to be $471,084 overstated.

Tax Exemptions Disclosed in Audited Financial Statements Were Incorrect

The GCIDA's 2017 and 2018 audited financial statements were prepared using annual reports from each respective year. These annual reports included the amounts of real property tax exemptions for nine[12] of the 10 active projects, including the amounts attributed to each ATJ.

The County publishes information on its website to assist in calculating property taxes and real property tax exemptions per lot. The County has four different class codes – 1) one, two and three family residential; 2) apartments, condominiums and cooperatives; 3) public utilities; and 4) commercial and other – and a corresponding tax rate per $100 of assessed value for each class code. Meanwhile, the City Assessor releases residential and commercial tax rates per $1,000 of assessed value and annual tax rolls with all property assessments for the City, school district and library. In all instances, the real property tax exemption is calculated by multiplying the assessed value of a property by the appropriate tax rate.

The CFO calculated real property tax exemptions for 2017 and 2018 using County and City rates received from City officials and assessments from the City tax rolls. Various errors in the calculations caused real property tax exemptions to be $471,084 overstated (see Figure 3). Errors ranged from $564 to $408,096 in understatements and $295 to $666,617 in overstatements on the 2017 and 2018 audited financial statements.

County Real Property Tax Exemptions – The County real property tax exemption amounts in both 2017 and 2018 annual reports were reported incorrectly due to calculation errors. The reports identified County tax exemptions of $2.4 million ($1.2 million in each year). However, calculations indicate County tax exemptions of $949,778 should have been reported, resulting in an overstatement of $1.46 million.

12 The tenth project had no PILOTs due until 2019 with no property tax exemptions in 2017 and 2018.

For eight projects, the CFO incorrectly calculated County tax exemptions using City assessments instead of the County assessments resulting in tax exemptions being overstated by $154,769. For example, a commercial property's 2018 County real property tax exemption was calculated as $12,499 using the City's $2.6 million assessment instead of the $15,227 assessment published on the County's website. The CFO indicated she was not aware that the County assessed values should be used to calculate the tax exemptions attributed to the County.

For the ninth project, the waterfront mixed-use project, the CFO used the sale price of the 17 land parcels as the basis for the 2017 and 2018 calculations because no County assessments were available. While the methodology is reasonable, the commercial rate was not applied correctly in either year's calculation. Although rates are per $100 of assessed value, the CFO's calculation used $10 as the threshold instead of $100 to calculate the exemption, resulting in a $1.3 million overstatement.

Because the CFO used incorrect tax rates and another official did not review the calculations, both the 2017 and 2018 annual reports included incorrect tax exemption amounts.

<u>City Real Property Tax Exemptions</u> – The City real property tax exemption amounts in the 2017 and 2018 annual reports were reported incorrectly due to calculation errors. The reports identified City tax exemptions of $4.1 million. However, calculations indicate City tax exemptions of $4.3 million should have been reported, a difference of $200,073.

The CFO used the 2016 commercial tax rate to calculate the 2017 tax exemption amounts instead of the 2017 rate, resulting in an overstatement of $113,184. For example, the tax exemption calculated for an apartment complex, $932,313, was calculated using the 2016 City 18.9 percent tax rate, instead of the 2017 17.9 percent rate. As a result, the reported tax exemption was overstated by $49,389. The correct amount should have been $882,924.

Additionally, in 2018 the CFO used the land sale value from 2017 for the waterfront mixed-use project properties in her calculation of City tax exemptions despite 2018 assessments being available from the City. Using the 2017 land sale value instead of the 2018 assessments for the calculation resulted in an understatement of $312,387 in the 2018 annual report.

The 2018 annual report was further understated by $870 for an affordable housing complex, because the CFO used the exemption from only one of the two property assessments associated with the project, instead of combining both in her calculation.

The CFO attributed these calculation errors to simple human error when doing the calculation.

School District and Library Real Property Tax Exemptions – School district and library real property tax exemption amounts in both the 2017 and 2018 annual reports were reported incorrectly due to calculation errors. The reports identified school district and library tax exemptions of $9.5 million ($4.9 million in 2017 and $4.6 million in 2018). However, calculations indicate school district and library tax exemptions of $10.3 million should have been reported, an understatement of $786,676.

The majority of the understatement, $743,476 in 2018, was the calculation for one project, the waterfront mixed-use project. The CFO used the land sale value from 2017 for the calculation despite 2018 assessments being available from the City. She indicated that she did not receive updated assessments from the City so she used what she already had, which was the sale price.

Two of the nine projects did not include the library tax rate in the calculation, resulting in a $14,000 understatement. The CFO indicated this was an error when doing the calculation.

In addition to the cited errors, there was one $29,199 difference between tax exemptions reported in the 2017 and 2018 annual reports and the calculations of the tax exemptions for the nine active projects paying PILOTs in both years that the CFO could not explain.

Figure 3: Summary of Property Tax Exemptions Calculation Errors in 2017 and 2018

Type of Calculation Error	Amount Overstated/(Understated) in Financial Statements Due to Error		
	2017	2018	Total
County RPT Exemption Calculation Rate Applied Incorrectly to the Waterfront Project	$655,295	$647,768	$1,303,063
County RPT Exemption Calculations Used Wrong City Assessments	93,927	60,842	154,769
City RPT Exemption Calculations Wrong Rate Year Used	113,184	0	113,184
City RPT Exemption Calculation Wrong Assessment Amount Used	0	(870)	(870)
School District RPT Exemption Library Calculation Not Included With School	0	(14,000)	(14,000)
School District RPT Exemption Unexplained Difference	(27,129)	(2,070)	(29,199)
City RPT Exemption Calculation Waterfront Sale Price Incorrectly Used in Calculation	0	(312,387)	(312,387)
School District RPT Exemption Waterfront Sale Price Incorrectly Used in Calculation	0	(743,476)	(743,476)
Total	**$835,277**	**($364,193)**	**$471,084**

Combined, these errors resulted in 2017 and 2018 audited financial statements being released to the public which included inaccurate real property tax exemptions – overstated by $835,277 in 2017 and understated by $364,193 in 2018. As a result, the public did not have accurate information about the dollar value of the tax exemptions the GCIDA granted to these projects.

What Do We Recommend?

GCIDA officials should:

7. Obtain an annual certified statement that includes FTE jobs as well as salary and fringe benefit averages or ranges for categories of jobs, with appropriate supporting documents from each project that is active and still receiving financial assistance as of the last day of the fiscal year, as required by their policy.

8. Document all staff audits, inquiries, investigations and on-site inspections in writing as required by policy.

9. Develop procedures that provide guidance on how to conduct audits, inquiries, investigations or on-site inspections. The procedures should include details such as when it is appropriate to conduct each type of review and the frequency at which each type of review should be completed.
10. Monitor all projects to ensure compliance with written agreements and take appropriate action when non-compliance is identified.
11. Ensure invoices are being sent to project owners timely, with accurate due dates and amounts.
12. Monitor PILOT remittances to ensure payments are received timely, and that penalties and accrued interest are charged when appropriate.
13. Ensure that PILOT allocation calculations are being updated annually based on the amount of real property tax that would be collected, and verify that up-to-date allocations are used in the billings.
14. Ensure that the audited financial statements include the complete name and address of each project owner.
15. Calculate City, County, school district and library real property tax exemptions using verified, current assessments and tax rates published on the County's official website and obtained from the City Assessor.
16. Review all relevant information obtained and ensure accuracy prior to release of annual reports and audited financial statements.
17. Ensure Board minutes include all relevant discussions about project status and the annual report.
18. Transmit the audited financial statements to the Commissioner of Economic Development, the State Comptroller and the Glen Cove City Council within 30 days of completion.

The Board should:

19. Ensure that officials responsible for annual reporting are made aware of and comply with all monitoring policies.
20. Ensure annual reports have been reviewed for accuracy prior to use in and release of audited financial statements.
21. Develop a policy for periodic staff audits and on-site inspections to verify jobs created or retained.

Appendix A: Response From GCIDA Officials

Timothy Tenke
Chairman

Ann S. Fangmann
Executive Director

Phone: (516) 676-1625
Fax: (516) 759-8389

GLEN COVE

INDUSTRIAL DEVELOPMENT AGENCY

City Hall, 9 Glen Street, Glen Cove, NY 11542

May 13, 2021

VIA U.S. MAIL & EMAIL: Muni-Hauppauge@osc.ny.gov
Mr. Ira McCracken, Chief Examiner
Office of the New York State Comptroller
110 State Street
Albany, NY 12236

Hauppauge Regional Office
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, NY 11788-5533

RE: GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY PROJECT APPROVAL & MONITORING REPORT OF EXAMINATION 2020M-139

Dear Chief Examiner McCracken:

On behalf of the Glen Cove Industrial Development Agency (GC-IDA) board members and staff, we appreciate the extension granted to respond to the preliminary draft findings of the above referenced report. Our responses, as prepared by Glen Cove IDA counsel on behalf of the board and staff, are set forth in the attached report.

Should you have any questions or require additional information with regard to this matter, I can be reached by phone at (516) 676-1625 Ext. 102 or by email: afangmann@glencovecda.org

Thank you for your cooperation.

Sincerely,

Ann S. Fangmann, AICP
Executive Director – Glen Cove Industrial Development Agency

CC: [redacted]
Glen Cove IDA Board Members (T. Tenke, V. Hartley, J. Cappiello, J. Gioino, D. Jimenez, I. Puspurica, J. Tetta)
Glen Cove IDA Legal Counsel (M. Tyler)
Mike Piccirillo, City of Glen Cove Controller

Phillips Lytle LLP

May 13, 2021

Dear Chief Examiner McCracken:

On behalf of the Glen Cove Industrial Development Agency (IDA) board members and staff, we want to thank the NYS-OSC audit team for the work that went into this audit. The IDA Board requested this audit at the beginning of the current Chairman's tenure in January 2018 and we are pleased to say that many improvements to the agency's operations have already been made under the tenure of the current IDA Executive Director and CFO, and other key City staff, such as the current Controller. No new PILOTs have been approved under this administration and we continue to improve our policies and procedures regarding due diligence for projects.

The following is our response to the preliminary draft findings of the NYS-OSC Project Approval and Monitoring Report of Examination for the Audit Period January 1, 2017 – September 30, 3019 (Draft Report). Our responses are set forth below and largely categorized under the various headings of the Draft Report. A critical note on the Audit Period of January 1, 2017-September 30,2019 is that the current IDA Chairman Timothy Tenke took office on January 1, 2018, as did the current IDA Executive Director Ann Fangmann. The current City Controller Mike Piccirillo took office on January 1, 2020 and the current IDA CFO Margo Zoldessy was hired on April 1, 2020. The closings for all the projects referenced within the draft audit report occurred prior to the tenure of each of the above referenced individuals. Thus, we are largely unable to comment on, much less take responsibility for, those actions. We will; however, move forward with best practices.

Background

There are some inaccuracies and clarifications needed pertaining to the Background section on p. 3 of the Draft Report. The City Mayor appoints the IDA members, which, under the NY General Municipal Law, consists of not less than 3 and no more than 7 members. The Mayor is not necessarily a member but can appoint him/herself as a member. The IDA's Transaction Committee does not approve projects, but rather they only make recommendations so as to allow board members to learn more about a project. This includes starting the due diligence process of obtaining needed documentation and analyses. Furthermore, we note that the IDA is extensively regulated by and follows the guidance of the New York State Authorities Budget Office (ABO).

See Note 1 Page 29

The Quick Facts table on p.3 contains a statistic on total full-time equivalent (FTE) jobs retained in 2018. It was unclear why the data for jobs created in 2018 was not also included.

See Note 2 Page 29

Chief Examiner McCracken
Page 2

May 13, 2021

Project Approval

- How Should the Board Approve Projects?

In reference to the Project Approval section starting on p. 4, there is a discussion of the Transaction Committee, which is an informal committee (typically made up of the Chairman, Executive Director, and legal counsel) that only conducts an initial review of projects. It is the full IDA Board that ultimately approves or rejects each project. For more recent projects, IDA staff and counsel have employed an approach of holding a preliminary Board meeting for projects and having the IDA Board pass a non-binding preliminary resolution authorizing further due diligence on projects. In addition, please note that legal counsel reviews each project application for compliance with applicable law.

See Note 3 Page 29

On p. 5, an important clarification is needed. The explanation provided assumes that the project would occur absent the granting of IDA assistance. However, the new regulations require that projects meet the "but for test," which requires applicants to certify that the project would not happen but for the requested financial assistance (or explain why the IDA should approve a project anyway). The IDA staff and counsel, and ultimately the Board, reviews the applicant's request as well as other due diligence to confirm this certification. This is a fundamental point: IDA projects would not happen without the IDA's financial assistance.

See Note 4 Page 29

There is also a correction needed for the first footnote at the bottom of p. 4. Projects are not leased back to the operator at the end of the project term.

See Note 5 Page 29

- The Board Did Not Address All New Reform Requirements for the UTEP and the Uniform Criteria

The Draft Report incorrectly states that the Board "adopted a UTEP" in June, 2016. That is not accurate - the Board reconfirmed its then existing long-standing UTEP in June, 2016. The distinction is important as the statutory requirement to notify and obtain input from affected tax jurisdictions does not apply to a simple reaffirmation. There is no legal requirement to give such notice. Furthermore, we would point out that as the IDA typically deviates from its UTEP, each jurisdiction does in fact get specific notice about each project's possible PILOT. We believe that this is a much more open and transparent policy and procedure. As to the required form of the UTEP, we note that a fully compliant UTEP was prepared, but not adopted by the prior Board. Lastly, the current UTEP does in fact identify the "types of projects" for which financial assistance may be given (i.e. industrial and non-industrial.)

See Note 6 Page 29

The Board intends to review its current UTEP and make any appropriate changes.

May 13, 2021

- Executive Director Did Not Properly Review Applications

On p. 6 of the Draft Report, there are several references to various reviews and documentation that appear to be lacking for three projects approved following the implementation and new IDA regulations. We stress again that the current Chairman and Executive Director came into office as of January 1, 2018. The three projects referenced were all approved prior to their tenure. Therefore, the IDA is unable to explain why the written staff reviews for those three projects were not in the IDA's files. The current staff is committed to maintaining proper files, with all required documentation.

The IDA agrees with the recommendations from the report on p.8 regarding project applications and reviews and notes that the Executive Director has already taken a number of steps to ensure this is improved on a going-forward basis. These steps include:

- Staff review for projects is now documented and complete. Applications are reviewed for completeness, including for the areas cited in the Draft Report - average or range of fringe benefits, FTEs, signatures, and other required information.
- Legal counsel also reviews each application for completeness and compliance with applicable law.
- The IDA now contracts with outside consultants to provide detailed independent third-party cost-benefit analysis reports for each project under review.
- As a matter of policy and procedure, the Executive Director requires National Development Council (NDC) to review and provide analyses for projects with a housing component, including mixed-use and affordable housing projects. NDC is consulted to help the IDA size the amount of financial assistance requested by an applicant to ensure that no "undue enrichment" is afforded to the applicant.

- Board Members and Officials Failed to File Financial Disclosures

Regarding the Required Annual Financial Disclosure Statements, the IDA has a robust Ethics Policy in place. Every board member has been given the policy upon appointment and has access to it on the IDA website. Members are asked to disclose any potential conflicts (based on the Application that they each receive) before casting any vote on a proposed project, and that disclosure is embodied in a certificate which is a part of the closing documentation for every project.

See Note 7 Page 29

May 13, 2021

The By-laws of the IDA adopted in 2008 contain a reference to filing financial disclosure statements with Nassau County; however, Nassau County advised the IDA that they are not the proper recipient of the forms and would not in fact accept them. Instead, copies of the financial disclosure statements of the Board and staff members are kept on file with the IDA and the City and are used by IDA staff to help identify any potential conflicts.

The IDA adopted an updated policy (on 6/25/19) and has collected the financial disclosure statements in both 2020 and 2021 from all Board members and employees and these reports are kept on file by the Board Secretary. The IDA Governance Committee revisited the Agency By-laws in early 2020 (prior to the start of the COVID pandemic), and they will be updated to reflect this change. The IDA board deferred adoption of the amended By-laws pending receipt of the results of the NYS OSC audit report (as well as delays in operations due to COVID-19 pandemic). By adopting the new policy in mid-2019, the IDA feels that the Agency moved swiftly in response to the initial findings of the audit. An important note is that no actual conflicts of interest were found in the audit: this is a procedural issue only.

Project Monitoring

- How Can Officials Monitor Whether Project Goals Are Met?

Regarding the process described in the final paragraph of this section, the policy for the IDA is described in detail in the Project Monitoring and Compliance Policy adopted by the IDA Board on January 10, 2017. This section also notes that PILOT agreements should contain the amount due annually to each ATJ or contain a formula. The PILOT Agreements executed by the IDA do each contain such a formula. The IDA and Finance Department will be working to ensure that the schedules and due dates within future PILOT agreements are clear (identified by City/County and School District tax years) and achievable to administer from an operational standpoint.

- Officials Failed to Collect Annual Certified Statements

In each instance, project Applicants are affirmatively required to provide the referenced certifications by the project documents. The Draft Report inaccurately states that such certifications were not collected "as a matter of policy". No such policy exists. Applicants have in the past failed to provide this documentation. The current staff is aggressively ensuring compliance with these requirements.

See Note 8 Page 29

On June 25, 2019, the IDA implemented the usage of a "Form of Annual Employment and Financial Assistance Certification Letter" for the collection of annual job creation data for submission to the New York State Authorities Budget Office ("ABO). This method of job creation data took effect for the 2019 reporting year which was due by March 31, 2020. In this formalized procedure, the Executive Assistant, on behalf of the CFO, will send each IDA project financial aid recipient the form of annual employment and financial assistance certification letter by the end of the calendar year and reiterate that non-compliance by the specified due date could result in the enforcement of provisions in the agreement, including but not limited to, voidance of the agreement and potential claw back of benefits. Since adoption of this formal policy/procedure, the data has been collected in writing for the 2019 and 2020 reporting years and posted on the IDA website in accordance with ABO regulations.

- Officials Did Not Monitor Compliance with Written Agreements

Certain claims made in this section are materially inaccurate, as the Executive Director of the Agency did participate in regular project update and construction coordination meetings for the active IDA projects for the audit period during her tenure. This information was provided to the field audit staff and agendas for such meetings are available upon request. For inactive projects (i.e. those under a PILOT but no longer under construction), the Executive Director and former CFO did conduct numerous informal site visits. For instance, when one of the Avalon Buildings was renovated, the Executive Director visited to tour the improvements and speak with on-site staff. The Executive Director also received regular updates on inactive projects through her membership on the Downtown Business Improvement District (BID) Board and the Inter-Agency Council, and through the Chamber of Commerce. Glen Cove is small enough that project monitoring can be accomplished in this manner.

See Note 9 Page 30

On a going forward basis, the Agency intends to adopt a policy formalizing the practice of periodic staff audits and on-site inspections. Please note that the verification of jobs created or retained is provided in the annual certified statements, consistent with the adopted form and resolution discussed above. The Agency's practice of keeping Board minutes will follow all applicable guidance of the Authorities Budget Office (ABO), including its recommended practices in "Board Meetings - Best Practices for Public Authorities". Please note that since new ABO regulations require meetings to be livestreamed and recorded, the full transcript of the board meetings is posted on the IDA website and publicly available.

We note that the IDA board and staff has requested IDA legal counsel to prepare a memorandum upon project closing that outlines required compliance procedures related to the project agreements.

- PILOT Billing and Collections Were Not Monitored by Officials

May 13, 2021

The City Finance Department and IDA have been meeting regularly and coordinating since the field audit. Unfortunately, due to staff turnover (including 3 different City Controllers between 2016-2017) and schedules that had been created for PILOT invoicing by a former Controller that had incorrect due dates and that were not updated annually for allocation percentages between the tax jurisdictions, potential default events were found for several of the projects and are being further investigated. During the field audit, the issue of the due dates became clear and the Finance Department and IDA worked quickly to review all agreements and implement a schedule reflecting the proper due dates. The Finance Department is continuing to review late payments received for timely invoicing that was done in the past and will explore back charging of late fees and interest based on these findings and in coordination with the IDA and the Mayor's Office.

New invoicing and verification procedures have been put into place between Finance and the IDA, under the oversight of the current Controller who took office at the beginning of 2020. Invoices are now emailed to the contacts for the PILOT projects at least 30 days prior to the payment due date. The IDA Executive Director and CFO review and verify the invoices produced by the Finance Department's Principal Account Clerk, along with the City Controller. Final copies of the invoices are provided to those individuals. Based on the PILOT schedules from current projects, invoicing will occur approximately 8 times per year. On or around the 10th of each month, the Principal Account Clerk sends a statement of payments, including due dates and date of payment received to the IDA Executive Director and CFO. Potential default events, including the billing of late fees and interest, will be reviewed with the IDA Executive Director, IDA legal counsel, the Controller, and the Principal Account Clerk against the project agreements.

- PILOTS Were Not Allocated Correctly Among Affected Taxing Jurisdictions

As noted above, the PILOT payment allocation schedule for the tax jurisdictions developed by a previous Controller was not sufficiently updated. Going forward, the PILOT payment allocations will be based on the current tax distribution. The allocations will be determined on the current assessed valuation multiplied by the tax rate. Please note the complexity of the School/Library tax year not coinciding with the City/County tax year. In addition, the County uses a valuation that is from two years ago and the City uses the prior year valuation. Added complications include different qualification rates and changes to lot numbering systems.

We note that Section 858(15) of the General Municipal Law does not specify the method of allocation among the affected tax jurisdictions. The statute requires an allocation in proportion to the otherwise applicable taxes, without specifying periodic updates of that allocation. Nonetheless, going forward, the allocation percentages will be readjusted annually.

Officials will allocate the invoices for each billing cycle based on the current allocation of taxes among the tax jurisdictions and then adjust (as needed) on the second half payment invoices to account for any assessment or tax difference that affects the previously determined allocations. City tax rolls are finalized in November and the School tax roll is finalized in June. This new methodology will ensure timely invoicing and up-to-date allocations between the tax jurisdictions. The City will further research and evaluate the previously determined allocations and explore recovery if deemed advisable and legally permissible upon further discussion with the IDA, Mayor's Office, and legal counsel.

- Officials Did Not Disclose All Required Information in Audited Financial Statements

The items reflected in this section of the draft report were minor in nature and easily correctable. The referenced information was publicly available either on the IDA's website or within its publicly filed PARIS reports. Further, while project owner addresses were not within previous audited financial statements, project owner names were and the addresses were added into the audited financial statement for 2020, adopted within the 90-day close of the fiscal year. In fact, the IDA endeavored to have the 2020 draft audited financial statement prepared and approved by the IDA Board before the end of March 2021, even though the ABO had granted an extension due to the COVID pandemic. In 2021, the Board approved 2020 audited financial statement was emailed directly to the required contacts noted in this section of the Draft Report, in addition to its posting on the Agency website (which had always been done in past years) by the Executive Assistant on behalf of the CFO. In addition, during early 2020, the 2019 audited financial statements were emailed directly to the required contacts by the Executive Director following the departure of the former CFO. Moving forward, we will continue to implement this protocol annually.

- Tax Exemptions Disclosed in Audited Financial Statements Were Incorrect

Important to note for this section of the Draft Report is that the tax exemptions calculated for PARIS are for reporting purposes only and do not affect the actual amount of the PILOT payments. It is a calculation compiled to provide disclosure of the estimated dollar value of the financial assistance given for the projects. We note again the fallacy of this disclosure: projects would not have happened but for the IDA assistance, and therefore, the applicant "savings" is hypothetical and not a realistic calculation. 2017 was a key year for the audit period and it was found that a former Controller had left the BID Assessment out of the tax rolls, which created an issue for the 6 projects located within the BID. As a result, the tax system showed a higher dollar value exemption because of the separate BID assessment amounts for those projects. The former CFO likely used the exemption amount directly from the tax program, which may account for the differences between what was reported in PARIS in 2017 and the calculated value of the City tax exemption.

As a result of the audit, it was clear that the IDA needs better support for the calculation of the annual tax exemptions from the City Assessor and Finance Department. The IDA does not have access to the City's tax software and can only view the County exemption information (that is available) online. Certain projects, including the waterfront mixed-use project referenced in the Draft Report, have required careful review of the parcels by the City's Assessor to determine the proper County and City class codes (which have differences). In addition, myriad lot changes and condominium conversions complicated the process. The former CFO did not have adequate support to ensure the accuracy of the past calculations and parcel class codes. While the complexity is still there, the City Assessor, Assessment Office, Controller, Principal Account Clerk, IDA Executive Director, and IDA CFO are meeting on the assessments for the PILOT parcels annually, ahead of the PARIS reporting due in late March. Consistent with 2020-2021, we will start this process in December of the prior year.

- NYS OSC Recommendations

The Draft Report contains 21 specific recommendations, which the IDA staff generally agrees with and will work to ensure future compliance with.

Respectfully submitted by Milan K. Tyler, Esq. counsel to the Glen Cove IDA on behalf of the Glen Cove IDA Board and Staff

Appendix B: OSC Comments on the GCIDAs Response

Note 1

The GCIDA's website identifies the Mayor in the list of "Board Members." The report does not indicate the transaction committee approves projects, it states that "The [transaction] committee communicates with the Board through informal discussions making a verbal recommendation to approve or deny the project."

Note 2

The jobs created figure can be misleading because it includes temporary jobs such as those in construction, which cease when the project is finished.

Note 3

The transaction committee is identified in the GCIDA's uniform project agreement as the third step in processing and evaluating a project application. Additionally, we obtained a transaction committee charter outlining the purpose, powers and responsibilities of the committee.

Note 4

Nothing on page 5 cites that a project would or would not occur absent the granting of IDA assistance.

Note 5

The footnote was adjusted to a more accurate definition.

Note 6

Board resolution No. 5(a) Section 4 states that the Board adopted the UTEP on June 30, 2016. Although officials stated that a UTEP existed prior, when support was requested, they were unable to provide us with any documentation.

Note 7

As the report states and the GCIDA's response reiterates, the by-laws in effect during the audit period required annual financial disclosure statements be filed with the County Board of Ethics. When requested, neither these statements, nor others, such as certificates from each project's closing documentation, were provided.

Note 8

The report does not contain the statement "as a matter of policy." As stated on page 5 of the Officials' response, the GCIDA has a "Project Monitoring and Compliance policy." Section 3 of this policy requires that at the end of each fiscal year, the Executive Director issue a questionnaire to every project with bonds or notes still outstanding, with a straight-lease transaction that has not terminated, or that received financial assistance or was otherwise active, as of the last day of the fiscal year. The policy further states that the questionnaire should require the project to submit information that would allow GCIDA to comply with applicable laws. Two projects provided annual certified statements as required by the written agreements with the GCIDA. For the remaining eight projects, no such documents were provided.

Note 9

After the exit conference, the Executive Director provided documents regarding on-site visits for three of the projects. These documents were not provided during the fieldwork phase of our audit, nor were these details documented in the Board minutes. The report was updated to capture this additional information.

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 GCIDA officials and Board members and reviewed the GCIDA's UTEP and uniform criteria to gain an understanding of the project approval and monitoring processes.
- We determined that there were 10 active projects during the audit period and, using our professional judgment, decided to include all 10 projects in our tests.
- We reviewed all applications, PILOT agreements, master tax agreements and lease agreements for the 10 active projects.
- We reviewed Board minutes, annual reports and audited financial statements to gain an understanding of the active projects and to determine the level of monitoring done by GCIDA officials.
- We obtained and reviewed 40 invoices and 115 payments to determine if the projects were billed accurately and payments were remitted timely. If payments were late, we calculated late penalties and accrued interest, as mentioned in relevant agreements, and determined if the penalties and interest were billed and collected.
- We determined if remitted PILOTs from 2017 and 2018 were allocated proportionally to the City of Glen Cove, the County of Nassau, the Glen Cove City School District and the Glen Cove Public Library based on the amounts of real property taxes that would have been allocated to each jurisdiction had the project paid real property taxes.
- We obtained and reviewed both 2017 and 2018 annual reports and audited financial statements to determine if they included all of the required information, were approved by the Board and were submitted to the NYS agencies and City Council as required.
- We recalculated real property tax exemptions reported in the annual reports for 2017 and 2018 using assessments and tax rates obtained from the County website and the City tax rolls.

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 Executive Assistant's office.

Appendix D: Resources and Services

Regional Office Directory
https://www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas
https://www.osc.state.ny.us/local-government/publications

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
https://www.osc.state.ny.us/local-government/publications

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
https://www.osc.state.ny.us/files/local-government/publications/pdf/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
https://www.osc.state.ny.us/local-government/publications

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

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HAUPPAUGE REGIONAL OFFICE – Ira McCracken, Chief Examiner

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