

Tompkins County Development Corporation

Board Oversight

MAY 2021



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

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Report Highlights

Tompkins County Development Corporation

Audit Objective

Determine whether the Tompkins County Development Corporation (TCDC) Board of Directors (Board) properly oversaw operations.

Key Finding

- The Board generally oversaw operations but was unaware that its policy covered the calculation of the administrative fee. As a result, an administrative fee of \$88,815 was collected even though only \$1,000 should have been collected in accordance with the current Board-approved policy.

Key Recommendations

- Periodically review and update policies and procedures.
- Ensure that administrative fees collected are based on the Board-approved policy or deviations have been approved.

Corporation officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

Background

Tompkins County (County) Legislature established the TCDC in 2010 to advance economic growth by serving and encouraging not-for-profit entities to operate in the County.

The TCDC is governed by a seven-member Board appointed by the County Legislature and includes four County legislators. The Board is responsible for the general management and oversight of TCDC's operations.

Ithaca Area Economic Development, Inc. (IAED), was hired to perform administrative services defined in a memorandum of understanding. The Board-appointed Administrative Director, who is employed by IAED, acts as the Chief Executive Officer and is responsible for day-to-day operations.

The County Controller serves as the Chief Financial Officer (CFO) and maintains the financial records.

Quick Facts

| | |
|----------------------|-----------|
| Total Receipts | \$88,815 |
| Total Disbursements | \$350,015 |
| Active Bond Projects | 13 |

Audit Period

January 1, 2019 – November 30, 2020

Board Oversight

The primary mission of TCDC is to promote economic development initiatives in Tompkins County. This is generally accomplished by offering tax-exempt bonding opportunities to not-for-profit organizations. TCDC receives bond administration fees from the borrowing organizations for providing this service. There were 13 bonds outstanding with seven not-for-profit entities during our audit period. TCDC also provides funding to support projects that further benefit local economic development.

How Does the Board Provide Proper Oversight?

The board is responsible for overseeing operations and safeguarding its financial resources. These responsibilities include ensuring that appropriate policies and procedures are established and enforced. The board needs to establish clear guidance on project eligibility, as well as how it intends to review and approve bond project applications and any other funding requests in line with its mission to promote economic development. The board should periodically review and update policies and procedures to ensure they are current, relevant and meet the board's intended direction.

The board should also periodically review financial activity to ensure financial resources are safeguarded, properly accounted for and accurately reported.

The Board Generally Provided Proper Oversight

The Board generally oversaw operations. The TCDC Board adopted a policy called, "Missions, Policies, & Procedures" which outlines the project application and approval process and establishes administrative fees. The policy also requires the bond project applicants to annually submit bond status update reports to the Board.

We reviewed the only bond project application submitted during the audit period and found that all steps within the approval process were followed. IAED staff assist the TCDC's bond counsel with the final closing process and collect the administrative fee. An administrative fee of \$88,815 was collected, deposited and recorded properly. However, the Board policy states that administrative fees are equal to one percent of the total value of bonds issued or when debt is refinanced, one percent of the debt service saved or \$1,000, whichever is greater. The application did not show any debt service savings, therefore, only \$1,000 should have been collected and the revised fee of \$88,815 was not approved by the Board. The Administrative Director acknowledged that the policy was out-of-date and that a \$1,000 fee would not even cover the work involved in issuing the bond. She also told us that as far as she can remember their administrative fee has always been 25 basis points of the bond issued per their bond counsel's

experience within the industry. Board members told us that they were unaware that their policy covered the calculation of the administrative fee.

We also determined that the Board received the annual bond status update reports for all 12 current projects in 2019 in accordance with the Board policy. Furthermore, the Board received nine funding requests for local projects totaling over \$350,000 during our audit period which were Board approved and in line with TCDC's mission. IAED staff received and reviewed bank statements and canceled check images and prepared quarterly financial reports for the Board. We compared the quarterly financial reports to the accounting records for the audit period and determined that the receipt and disbursement activity was reported accurately to the Board.

What Do We Recommend?

The Board should:

1. Periodically review and update policies and procedures to ensure they are current and relevant.
2. Ensure that the administrative fees collected are based on the Board-approved policy or deviations have been approved.

Appendix A: Response From Corporation Officials

Tompkins County Development Corporation

Administration provided by Ithaca Area Economic Development

Ann Singer, Chief Examiner
Office of the State Comptroller
Binghamton Regional Office
44 Hawley Street, Suite 1702
Binghamton, NY 13901-4417

April 7, 2021

Re: Response to draft audit of Tompkins County Development Corporation and corrective action plan

Dear Ms. Singer:

The Tompkins County Development Corporation (TCDC) appreciates the opportunity to submit this response and corrective action plan in regard to the draft audit report. The TCDC board and staff take great pride in the work of the TCDC to support economic growth in our community. The draft audit recognizes the exemplary oversight and management of the organization. We are grateful for the efforts of the Office of the State Comptroller to assist in strengthening the board's oversight and controls of the TCDC.

In response to the finding that the fee collected on a bond issuance in 2020 was not in compliance with the current board-approved fee policy, the Board recognizes that the fee policy as written was inadequate to cover the costs of administrative time associated with the bond application, approvals, and issuance. In February 2021, the Board updated the fee policy to better reflect industry practices as follows:

“Unless otherwise agreed to by the Agency for good cause, the fee will be equal to 1% of the total value of the bonds issued”

The TCDC is taking the following corrective actions as a result of the recommendations in the draft audit:

- Periodically review and update policies and procedures: The TCDC last reviewed and updated policies in 2016. Administrative staff added this recommendation to their annual running list of administrative tasks and plans to budget for a comprehensive legal review and governance committee review of policies in 2022.
- Ensure that administrative fees collected are based on the Board-approved policy or deviations have been approved: The Board updated the fee policy in 2021 to require Board approval of any deviations to the stated fee policy.

Sincerely,

Rich John, Chair

cc: Tompkins County Development Corporation Board
Leslyn McBean-Clairborne, Chair, Tompkins County Legislature
Jason Molino, Tompkins County Administrator
Rick Snyder, Tompkins County Director of Finance
Russ Gaenzle, Esq., Harris Beach, PLLC
Ryan Silva, Executive Director, NYSEDC
Assemblywoman Anna Kelles
Senator Pamela Helming

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Appendix B: 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 TCDC officials, the County Controller and IAED staff members active in TCDC's daily operations and reviewed Board minutes, policies and the certificate of incorporation to gain an understanding of TCDC processes and determine whether TCDC is complying with its mission.
- We reviewed the 2019 and 2020 memorandums of understanding between TCDC and IAED to determine whether the TCDC Board is providing adequate oversight over the IAED.
- We reviewed the one application submitted to the TCDC during our audit period and compared it to the Board's policy, bank statement, and accounting records to determine whether the proper approval process was followed and the accurate administrative fee was collected, deposited and recorded.
- We reviewed all 12 current projects to determine whether the proper annual bond status reports were submitted in 2019.
- We reviewed monthly bank statements and canceled check images for our audit period and determined whether the nine disbursements for funding requests were Board approved, supported and recorded accurately by tracing to the Board meeting minutes, supporting documentation and accounting records.
- We reviewed the quarterly financial reports and compared them to the accounting records to determine whether the receipt and disbursement activity was reported accurately to the Board.
- We reviewed the annual disclosure statements of all Board members to verify that there were no potential interests with any vendors approved for bonding or disbursements.

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

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.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of 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.

Appendix C: 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

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

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