New York State Comptroller
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Essex County Industrial Development Agency

Project Approval and Monitoring

2024M-146 | August 2025

Division of Local Government and School Accountability

Contents

Audit Results

Essex County Industrial Development Agency

Audit Objective	Audit Period
Did the Essex County Industrial Development Agency (ECIDA) Board of Directors (Board) properly approve and monitor projects that were provided financial assistance?	January 1, 2017 – August 31, 2024

Understanding the Program

Industrial development agencies (IDAs) are established by special act of the State Legislature to advance the job opportunities, economic welfare, health and general prosperity of the people of New York State. IDAs provide financial assistance, including tax exemptions (e.g., real property, mortgage recording and sales and use taxes), to businesses to encourage various types of economic development projects (e.g., industrial, manufacturing, warehousing, commercial, research, renewable energy and recreational facilities). In return for financial assistance, many project owner occupants, or project owners who receive IDA financial assistance, promise to create new jobs or retain existing jobs in the community and invest in constructing new buildings or renovating existing buildings.

The seven-member Board is responsible for managing ECIDA's financial and operational affairs, including project approval and monitoring. A Board-appointed Co-Executive Director serves as the chief financial officer (CFO) and is responsible for reviewing submitted project applications and annually reporting information for approved projects.

During the audit period, the Board approved 12 projects with projected investments in their applications totaling more than $360 million. Seven of the approved projects were granted sales and use tax exemptions and three were granted mortgage recording tax exemptions.

Audit Summary

The Board did not properly approve and monitor projects that were provided financial assistance. For example, the Board did not develop and adopt, by resolution, uniform criteria for the evaluation and selection for each category of projects to be provided financial assistance, including the preparation of a written cost-benefit analysis (CBA), as required by New York State General Municipal Law (GML). Of the nine approved projects we reviewed, a written CBA was not prepared for four of the projects, and the CBAs prepared for the other five projects did not include all the information required by GML. As a result, the Board could not properly assess these projects, before their approval, to ensure the benefit to the community would be a sufficient return for the financial assistance to be provided.

In addition, the project agreements for eight of the nine projects did not include all the information required by GML. For example, the project agreements for seven of these eight projects did not include the amounts of financial assistance to be provided, as required. As a result, the extent of financial assistance that the Board granted to these projects was not clear.

Furthermore, officials did not annually assess the progress of each project toward achieving the investment goals indicated in the project applications or provide the assessments to the Board, as required by GML. In addition, because jobs information was not recorded based on the number of full-time equivalent (FTE)[1] jobs on the application or annual questionnaire, the Board's ability to assess the progress of each project toward achieving the job goals indicated in the project applications was limited.

The Board was also not provided with, and did not request, adequate information to monitor projects to determine whether they claimed sales and use tax exemptions within the authorized amounts. Three of the seven projects that were approved and granted sales and use tax exemptions between 2017 and 2023 reported exceeding the authorized amounts by a combined total of $129,218, and officials were unaware that another project reported inaccurate amounts of exemptions claimed. The Board did not take any steps to recapture the reported excess amounts, as required by GML.

The report includes 13 recommendations that, if implemented, will improve ECIDA's project approval and monitoring. Board officials generally agreed with our recommendations and have initiated, or indicated they planned to initiate corrective action.

We conducted this audit pursuant to Article X, Section 5 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of GML. Our methodology and standards are included in Appendix C.

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 provided to our office within 90 days, pursuant to GML Section 35. 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 ECIDA's office.

1 FTE is a unit of measurement used to compare the workload of different employees, such as full-time and part-time employees, and determine the workload of all employees in a business. For example, an FTE of 1 means that the employee works hours equivalent to a full-time employee, while an FTE of .05 indicates that the employee is only part-time and works the equivalent of one half of the hours of a full-time employee.

Project Approval and Monitoring Findings and Recommendations

Effective June 15, 2016, IDAs must comply with certain statutory requirements before providing financial assistance. For example, GML Section 859-a requires IDAs to develop a standard application form, uniform criteria for the evaluation and selection of each category of projects to be provided financial assistance and uniform project agreements. An IDA's uniform criteria must require the IDA to prepare a written CBA before project approval. A CBA should include a comparison of the cost of the requested financial assistance to the intended benefits to the community to assist the IDA board with its determination of whether to approve or deny a project.

GML Section 874 (12) requires IDAs to annually assess the progress of each active project (i.e., a project which continues to receive financial assistance or is otherwise active) toward achieving the investment, job retention or creation or other objectives of the project. IDA boards should review the assessments and any supporting documentation to determine the progress each project is making toward the stated objectives. In addition, GML Section 875 (3) requires IDAs to recapture any sales and use tax exemption benefits in excess of amounts authorized by the IDA and to remit the funds to the New York State Department of Taxation and Finance (NYSDTF).

More details on the criteria used in this report are included in Appendix A.

Finding 1 – ECIDA's application did not include all the information required by GML and the Board did not develop and adopt uniform evaluation criteria, including the preparation of a written CBA, as required by GML.

We reviewed nine of the 12 projects[2] the Board approved during the audit period. While ECIDA developed a standard application form that was used by all nine project applicants, ECIDA's application did not include all the information required by GML. For example, while the application requested applicants to record the current number of employees by category (i.e., full-time, part-time and seasonal) and the projected number of additional employees (i.e., jobs that would be created) by category in years one and two of the project, it did not require employment information to be recorded based on the number of FTE jobs, as required by GML. As a result, the Board's evaluation of the job goals included in the applications was limited to the projected total number of jobs to be retained or created, and not the projected number of FTE jobs (i.e., total working hours of projected jobs). For example, if an application included the creation of five part-time jobs, the Board would not be able to determine the projected total working hours of these jobs (e.g., whether the jobs combined consisted of 40 working hours a week or 125 hours a week, resulting in different numbers of FTE jobs), which could impact the economic benefits the project has on the community. Had the Board required employment

2 Refer to Appendix C for information on our sampling methodology.

information to be recorded based on the number of FTE jobs, it may have been able to better evaluate the economic impact of the job retention and/or creation proposed by a project.

In addition, the Board did not develop and adopt, by resolution, uniform criteria for the evaluation and selection for each category of projects to be provided financial assistance, as required by GML. Furthermore, a CBA was not prepared for four of the nine projects, as required by GML. While CBAs were prepared for the other five projects, none of them included all the information required by GML. For example, the CBAs did not include the likelihood of completing the proposed project in a timely fashion or the extent to which the proposed project would provide additional sources of revenue for surrounding local governments and school districts, as required. The CFO, who prepared the CBAs, told us she was unaware of the statutory requirement that a CBA must be prepared for each project and the information required to be included in the CBA.

The CBAs that were prepared generally consisted of a calculation to determine whether the project was cost-beneficial to the applicant (comparison of the financial assistance to be received to the costs to be incurred for fees) instead of whether the project was cost-beneficial to the community (comparison of the cost of the requested financial assistance to the intended benefits to the community).

Without Board-adopted uniform criteria for the evaluation and selection of projects, including the requirement that ECIDA prepare a written CBA, the Board cannot properly assess projects before approval to ensure the benefit to the community will be a sufficient return for any financial assistance provided.

Recommendations

The Board should:

1. Update the standard application for financial assistance to require applicants to record employment information based on the number of FTE jobs.
2. Develop and adopt, by resolution, uniform criteria for the evaluation and selection for each category of projects to be provided financial assistance, as required by GML.
3. Ensure that the uniform criteria requires ECIDA to prepare a written CBA, which includes all the information required by GML and a comparison of the cost of the requested financial assistance to the intended benefits to the community before approving projects.

Finding 2 – Board resolutions did not always include the amount and type of financial assistance to be provided.

For each of the nine projects reviewed, the Board adopted an initial resolution approving the project after project representatives made a presentation at a Board meeting, officials published and provided the required notices to affected taxing jurisdictions, and the Board held a public hearing and adopted a final resolution approving the project.

Although the Board followed the procedure to adopt resolutions for each project, the Board resolutions approving one project did not include a description of the financial assistance (i.e., tax exemptions) approved, by the Board, as required by GML. In addition, while both the initial and final resolutions approving the other eight projects included the types of financial assistance approved, seven of the initial and final resolutions for these projects did not include any amounts for the financial assistance approved.

While GML does not require the resolution adopted by the Board to describe the specific amount of financial assistance, without this information, the extent of financial assistance that the Board has granted to a project is not clear and transparent to the public. Officials told us there was not a specific reason why amounts of financial assistance were not included in the initial and final Board resolutions approving projects, but said that historically, the amounts were not a component of resolutions approving projects.

Recommendation

4. The Board should ensure that all resolutions approving projects describe the type of financial assistance to be provided and should consider including a description of the amount of financial assistance in such resolutions.

Finding 3 – Project agreements did not always include all the information required by GML.

For each of the nine projects reviewed, ECIDA executed project agreements with the project owners before providing any financial assistance. However, the project agreements for eight of the nine projects did not include all the information required by GML. For example, the project agreements for seven of these eight projects did not include the amounts of financial assistance to be provided, as required. While the project agreement for the remaining project included the amount of sales and use tax exemptions granted, it did not include the amounts for the other tax exemptions granted. In addition, the project agreements for seven of the projects did not include a requirement for the annual submission of a certified statement and documentation of the FTE jobs retained and created by category, as required.

Because the project agreements did not include all information required by GML, the extent of financial assistance that the Board granted to projects was not always clear and the Board's ability to properly monitor the progress of projects toward achieving their job retention or creation goals was hindered. Officials told us that they believed all the information required by GML was incorporated into executed project agreements because legal counsel prepared the agreements.

Recommendation

5. The Board should ensure project agreements include all the information required by GML.

Finding 4 – Officials did not annually assess projects' investment goals as required by GML.

ECIDA officials did not require project owners to annually report or submit documentation of the amount invested in their projects. Instead, the CFO told us she requested project owners to submit supporting documentation of the amount invested in their projects once the construction was completed. The CFO told us that she then reviewed the documentation that was submitted to determine whether projects met the investment goals indicated in their project applications. However, the CFO did not document these assessments or provide the Board with this information. As a result, officials did not annually assess the progress of each project toward achieving the investment goals indicated in their project applications or provide the assessments to the Board, as required by GML. Officials told us they were unaware of this statutory requirement.

We reviewed four projects[3] with projected investments in their applications totaling approximately $62.6 million to determine whether they met their investment goals as of December 31, 2023. Two of the four projects met their investment goals. In addition, while we could not determine whether another project met its investment goal because officials did not obtain documentation of the amount invested as of December 31, 2023, the project owner submitted the documentation in July 2024 demonstrating that the project met its investment goal. The remaining project owner submitted documentation of an investment of approximately $35.7 million, or approximately $300,000 less than the amount indicated in the project application.

3 Ibid.

While the projects we reviewed generally met their investment goals, officials should annually obtain investment documentation from project owners so the Board can properly assess the progress of each project toward achieving their investment goals.

Recommendations

The Board should:

6. Require project owners to annually report the amount invested in their projects and submit supporting documentation of the reported information.
7. Ensure that, at least annually, an assessment is performed to determine whether each active project is progressing toward achieving the investment goals indicated in their project application and that the assessments are provided to them, as required by GML.

Finding 5 – Officials did not require jobs information to be recorded based on the number of FTE jobs.

ECIDA's annual questionnaire requested project owners to report the current number of jobs by category (i.e., full-time, part-time and seasonal) and submit a copy of their Form NYS-45 (Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return) for the fourth quarter of the year, which reports the number of employees for a project. The CFO told us that for each project, she compared the number of jobs reported on the questionnaire to the number of jobs reported on Form NYS-45 to ensure the reported jobs appeared reasonable. The CFO prepared and submitted an annual report to the Board that included the number of jobs by category for each project from their application (current to be retained and projected to be created) and reported for the current year. The Board reviewed the annual report to assess the progress of each project toward achieving the job retention or creation goals indicated in the project applications.

However, because jobs information was not recorded based on the number of FTE jobs on the application or annual questionnaire, officials' ability to assess the progress of each project toward achieving the job goals indicated in the project applications was limited. For example, if a project intended to create 10 part-time and 10 seasonal jobs and reported currently having six part-time and 14 seasonal jobs, officials would have no basis to determine whether the project met their job goals because the questionnaire would only provide the number of part-time and seasonal jobs, and not the total working hours of these jobs. Without the actual working hours for part-time and seasonal jobs, officials would not be able to properly calculate the number of FTE jobs to measure the workload of all employees in the business against the job goals.

We reviewed four projects[4] to determine whether they met their job goals as of December 31, 2023. We could not determine the extent to which the projects met or did not meet their job goals because officials did not obtain jobs information based on the number of FTE jobs. However, based on our review of the reported total number of jobs and number of jobs by category, we determined that two of the four projects did not create the projected number of jobs indicated in the project application. For example, one project reported having four total jobs (one full-time and three part-time) as of December 31, 2023, although their project application established a goal to create 23 jobs (three full-time and 20 part-time).

Recommendation

8. The Board should update the annual questionnaire to require project owners to record employment information based on the number of FTE jobs.

Finding 6 – Projects reported claiming sales and use tax exemptions in excess of authorized amounts and the Board did not approve the amounts of mortgage recording tax exemptions granted to projects.

Sales and Use Tax Exemptions – ECIDA's annual questionnaire requested project owners to report the amount of sales and use tax exemptions claimed and submit a copy of their Form ST-340 (Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of IDA). The CFO prepared and submitted an annual report to the Board that included the sales and use tax exemptions claimed by each project. However, the CFO's annual reports submitted to the Board prior to 2021 did not include a comparison of the total amount of exemptions claimed over the life of the project to the total amount authorized. While the CFO started to include this information for projects in the 2021 annual report, subsequent annual reports did not always include this information for each project. The Board also did not receive or review any supporting documentation related to exemptions (e.g., Form ST-60 – IDA Appointment Project Operator or Agent for Sales Tax Purposes and Form ST-340). As a result, the Board was not provided with, and did not request, adequate information to determine whether projects claimed only authorized exemptions.

We reviewed all seven projects that were approved and granted sales and use tax exemptions from 2017 through 2023. For four of the projects, the initial and final Board resolutions approving the projects and corresponding project agreements did not include the amount of sales and use tax exemptions

4 Ibid.

which the Board authorized. As there was no official record documenting the exemption amounts approved by the Board for these projects, the CFO used the exemption amounts requested by the project owners in their applications to determine the authorized amount to be recorded on the initial Form ST-60 for each project. For one of these four projects, the CFO prepared an updated Form ST-60 that increased the authorized exemption amount from $409,077 to $575,000 after the Board approved the increase by resolution. However, the CFO prepared an updated Form ST-60 for another project that increased the authorized exemption amount from $300,000 to $750,000 without documented Board approval. The CFO told us the exemption amount was increased after the Board reviewed the 2021 annual report and determined the project exceeded the initial exemption amount.

For the remaining three projects, the initial and final resolutions approving the projects and/or project agreements included the Board-authorized exemption amount. The CFO recorded the Board-authorized exemption amount on the ST-60 forms for these projects.

We compared the exemption amounts authorized on the ST-60 forms to the exemption amounts which project owners reported claiming for the seven projects. For one project, the project owner reported using $541,000 in exemptions from 2019 through 2021, or $259,000 less than the authorized amount. However, officials could not determine whether the project claimed exemptions within the authorized amount over the life of the project because the project owner did not submit a copy of their Form ST-340 or annual questionnaire for 2022 although the CFO requested this information from the project owner on three separate occasions.

In addition, four of the other six projects reported exceeding the authorized amounts by a combined total of $419,552 (ranging between $960 and $290,334) as of December 31, 2023. While the annual reports provided to the Board did not include information showing that two of the four projects exceeded the authorized amounts, the annual reports did include this information for the other two projects. However, the Board did not take any steps during the audit period to recapture the reported excess amounts, as required by GML.

Subsequent to our fieldwork, the CFO contacted one of the project owners that reported exceeding their authorized exemption amount and the project owner determined that they mistakenly reported the total exemptions claimed over the life of the project on the Form ST-340 that was submitted to NYSDTF and ECIDA for 2023. This mistake made it appear that the project exceeded their authorized exemption amount by $290,334 as of December 31, 2023 although the project claimed exemptions that were $77,519 less than the authorized amount based on the amended Form ST-340 submitted by the project to ECIDA. Had the Board taken steps to recapture the initial reported excess amount they would have been made aware of this mistake in a timely manner.

The three remaining projects reported exceeding the authorized amounts by a combined total of $129,218. Officials told us that while they were aware some of the projects exceeded the authorized exemption amounts, they did not recapture these amounts because they believed the excess amounts were for valid purposes (e.g., excess exemptions claimed due to increased project costs from the time of initial authorization). However, to allow a project to exceed its initial authorized exemption amount, the CFO would need to submit an updated Form ST-60 to NYSDTF with the updated exemption amount approved by the Board.

Mortgage Recording Tax Exemptions – The CFO had online access to view the mortgages that were recorded with the Essex County Clerk's office and the corresponding exemptions each project received. Using this information, the CFO prepopulated the amount of mortgage recording tax exemptions claimed by projects on the annual questionnaires before the questionnaires were sent to project owners to be completed. The CFO also used this information to prepare and submit an annual report to the Board that included the mortgage recording tax exemptions claimed by each project that year. However, the annual reports did not include the total amount of exemptions claimed over the life of the project or the authorized amount. As a result, the Board was not provided with, and did not request, adequate information to monitor projects to determine whether project owners claimed exemptions within the authorized amounts.

We reviewed all three projects that were approved and granted mortgage recording tax exemptions from 2017 through 2023. Two of the projects claimed exemptions totaling $210,470 and the other project did not claim the exemption it was granted as of December 31, 2023. The initial and final Board resolutions approving these projects and corresponding project agreements did not include the amounts of exemptions. Without approved amounts, the Board could not monitor the exemptions claimed by projects to ensure they were within authorized amounts.

Recommendations

The Board should:

9. Ensure the CFO prepares and submits ST-60 forms with Board-authorized amounts.
10. Ensure project owners submit a copy of all ST-340 forms to ECIDA at the time of submission to NYSDTF, as required by project agreements.
11. Consult with ECIDA's legal counsel to determine the appropriate course of action for recapturing the sales and use tax exemption benefits claimed by projects that exceeded the authorized amounts.
12. Ensure the annual report includes data for all active projects comparing the total sales and use tax and/or mortgage recording tax exemptions claimed over the life of the project to the corresponding Board-approved amounts.

Finding 7 – The annual reports did not contain complete and accurate information for the Board to properly monitor projects.

The CFO used the annual questionnaires and supporting documentation to prepare and submit an annual report to the Board with a summary of each active project for its review.

Job Goals – For the four projects addressed in Finding 5, we reviewed the jobs data that was included in the 2023 annual report that was provided to the Board and determined that it was not accurate for two of the projects. For example, although one project's application indicated it would create three full-time and 20 part-time jobs, the 2023 annual report indicated that two full-time and 13 part-time jobs would be created. This occurred because the CFO recorded the number of jobs to be created by the project in year one instead of the final number of jobs to be created by the project in year three (project was in its fourth year as of December 31, 2023). The Board was unaware of the inaccurate jobs data in the 2023 annual report because it did not request or review any supporting documentation (e.g., applications and annual questionnaires) to verify the accuracy of the jobs data reported.

Furthermore, while the 2023 annual report included information showing that projects did not meet their job goals, the Board meeting minutes indicated that the Board reviewed the 2023 annual report for each project, including a verification of employment, and all projects met or exceeded their projections stated in their applications.

Sales and Use Tax Exemptions – For the seven projects granted sales and use tax exemptions, we reviewed the sales and use tax exemption data included in the annual reports that were provided to the Board and determined that the data was accurate for the six projects that claimed exemptions. Although the remaining project reported not claiming the exemption it was granted and eligible to start using in 2022, this project was not included on the 2022 or 2023 annual report. The CFO told us she did not include the project in the annual reports because it had not used any financial assistance (i.e., tax exemptions) granted by ECIDA during those years.

Mortgage Recording Exemptions – For the three projects granted mortgage recording exemptions, we reviewed the mortgage recording tax exemption data included in the annual reports that were provided to the Board and determined that the data was not accurate for the two projects that claimed exemptions. For example, one project claimed $32,000 in exemptions in 2018, but the 2018 annual report included “N/A” for the exemptions claimed. In addition, the same project claimed $1,895 in exemptions in 2019, but the 2019 annual report included $151,600, which was $149,705 more than the exemption claimed. This occurred because the CFO recorded the amount of the mortgage instead of the mortgage recording tax exemption. The Board was unaware of the inaccurate exemption data in the annual reports because it did not request or review any supporting documentation (e.g., County Clerk recording pages for mortgages filed) to verify the accuracy of the data reported.

Furthermore, although the remaining project had not claimed the exemption it was granted and eligible to start using in 2021, this project was not included on the annual reports from 2021 through 2023. The CFO told us she did not include the project in the annual reports because it had not used any financial assistance (i.e., tax exemptions) granted by ECIDA during those years.

Recommendation

13. The Board should request and review supporting documentation to ensure that the data in the annual report is accurate and complete.

Because the Board did not properly approve and monitor projects that were provided financial assistance, the Board could not properly assess all projects to ensure the community would receive sufficient benefits in return for the financial assistance provided or determine whether projects met their intended objectives and used only the financial assistance to which they were entitled.

Appendix A: Profile, Criteria and Resources

Profile

ECIDA is a corporate governmental agency constituting a public benefit corporation that was established in 1973. ECIDA is governed by the seven-member Board appointed by the Essex County Board of Supervisors.

The Board appoints Co-Executive Directors who are responsible for ECIDA's day-to-day operations. One Director serves as the chief executive officer and the other as the CFO. ECIDA primarily funds its operations with an annual contribution from Essex County.

Criteria – Project Approval and Monitoring

Project Application and Evaluation – GML Section 859-a (4) requires IDAs to develop a standard application form that must request, in addition to other information: the name and address of the project applicant; a description of the proposed project; the amount and type of financial assistance requested; an estimate of the project's capital costs; the projected number of FTE jobs to be retained or created by the project; and a statement acknowledging that the submission of any knowingly false or misleading information may lead to termination of any financial assistance.

In addition, GML Section 859-a (5) requires IDAs to develop, and the IDA board to adopt by resolution, uniform criteria for the evaluation and selection for each category of projects to be provided financial assistance. An IDA's uniform criteria must require the IDA to prepare a written CBA before project approval. The CBA must identify, in addition to other information: the extent to which a project will create or retain permanent private sector jobs; the estimated value of any tax exemptions to be provided; the amount of private sector investment generated or likely to be generated by the proposed project; the likelihood of completing the proposed project in a timely fashion; and the extent to which the proposed project will provide additional sources of revenue for surrounding local governments and school districts. In addition to the specific information which GML requires a CBA to identify, each CBA should also contain a comparison of the cost of the requested financial assistance to the intended benefits to the community to assist the IDA board with its determination of whether to approve or deny a project.

Board Resolution, Public Hearing and Notice – Before providing financial assistance of more than $100,000 to any project, GML Section 859-a (1) requires an IDA board to adopt a resolution describing the project and the financial assistance that the IDA is contemplating with respect to the project. Following the resolution, GML Sections 859-a (2) and (3) require the IDA to hold a public hearing and to give at least 10 days published notice of the public hearing and, at the same time, provide notice of the hearing to the chief executive officer of each affected tax jurisdiction within which the project is located.

Uniform Project Agreements – GML Section 859-a (6) requires IDAs to develop a uniform project agreement that describes the terms and conditions under which financial assistance will be provided to a project. The IDA may not provide financial assistance to a project without an executed project agreement. The agreement must include, among others, a description of the project, the amounts and types of financial assistance to be provided, the IDA purpose to be achieved by the project, the annual submission of a certified statement and documentation of the FTE jobs retained and created by category, a provision for the suspension or discontinuance of financial assistance as provided for in policies developed by the IDA and a provision for the recapture of all or part of the financial assistance provided to a project (i.e., “claw-back” provisions) as provided for in policies developed by the IDA.

Project Goals – GML Section 874 (12) requires IDAs, at least annually, to assess the progress of each active project toward achieving the investment, job retention or creation or other objectives of the project indicated in the project application. Such annual assessments must be provided to the IDA board.

Although not required by GML, to allow for a proper assessment, IDAs should require project owners of each active project to annually report the amount of investment made in the project. In addition, IDA boards should review the number of FTE jobs retained and/or created, as set forth in the annual certified statement required by the uniform project agreement. As part of the assessment, IDAs should also require project owners to submit supporting documentation of the reported information, such as financial reports and quarterly wage reports (i.e., Form NYS-45). The IDA board should review the assessments and supporting documentation to determine whether a project is progressing toward achieving the objectives stated in the project application, and that the community is receiving the intended benefits.

Sales and Use Tax Exemptions – Within 30 days of an IDA designating a project operator or other person to act as its agent for sales and use tax exemption purposes, the IDA is required to submit Form ST-60 with NYSDTF. Form ST-60 contains a description and estimated value of goods and services that will be exempt from sales and use tax, the estimated value of the sales and use tax exemption provided, and the dates which the agent designation both becomes effective and ceases. Project owners are required to annually report the actual sales and use tax exemptions claimed to NYSDTF on Form ST-340. ECIDA’s project agreements require businesses to submit a copy of any ST-340 forms to ECIDA at the time of submission to NYSDTF.

GML Section 875 (3) requires IDAs to recover, recapture, receive or otherwise obtain any sales and use tax exemption benefits taken by a project operator to which the project was not entitled or which are in excess of the amounts authorized by the IDA. Within 30 days of coming into possession of such amounts, the IDA must remit the funds to NYSDTF. Therefore, IDAs should have procedures in place to monitor sales and use tax exemptions claimed by projects to ensure that the amount of exemptions claimed do not exceed the amount of exemptions approved by the IDA board. Annually, the IDA should obtain ST-340 forms containing the reported exemptions claimed by each project operator and then compare the total amount claimed over the life of the project to the exemption amount authorized by the IDA board as reflected on the Form ST-60 form. Ultimately, the IDA board should ensure that exemption amounts set forth in the ST-60 form(s) submitted with NYSDTF conform with the amount approved by the IDA board for the project.

Mortgage Recording Tax Exemptions – Although not explicitly required by GML, IDAs should have procedures in place to monitor mortgage recording tax exemptions to ensure that the exemptions claimed by projects do not exceed the amount of mortgage recording tax exemptions approved by the IDA board. Annually, the IDA should obtain documentation of the exemptions claimed by each project owner (e.g., County Clerk recording pages for recorded mortgages) and then compare the total amount claimed over the life of the project to the amount approved by the IDA board for the project.

Additional IDA Resources

- Performance of Industrial Development Agencies in New York State: 2024 Annual Report – https://www.osc.ny.gov/files/local-government/publications/pdf/ida-performance-report-2024.pdf
- Interactive Map: IDA Data by Region – https://www.osc.ny.gov/local-government/industrial-development-agencies-new-york-state
- Industrial Development Agency Information – https://www.osc.ny.gov/local-government/resources/industrial-development-agency-information

In addition, our website can be used to search for audits, resources, publications and training for officials: https://www.osc.ny.gov/local-government.

Appendix B: Response From IDA Officials

ESSEX COUNTY IN THE PARK
INDUSTRIAL DEVELOPMENT AGENCY

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Web Site: www.essexcountyida.com

[redacted]
Principal Examiner
NYS Office of the State Comptroller
Division of Local Government and School Accountability
One Broad Street Plaza
Glens Falls, NY 12801

Dear [redacted]

The Essex County Industrial Development Agency (IDA) is in receipt of your Report of Examination 2024M-146. Although the IDA believed it was in compliance and collecting sufficient data to support both the awarding of projects and subsequent monitoring, it accepts the results of the audit and has taken steps to implement the necessary change. As such, this response is also serving as our Corrective Action Plan.

For each recommendation included in the audit report, the following is our corrective actions taken. For recommendations where corrective action has not been taken or proposed we have included explanations.

Audit Recommendations:

1. Update the standard application for financial assistance to require applicants to record employment information based upon the number of FTE jobs
2. Develop and adopt, by resolution, uniform criteria for the evaluation and selection for each category of projects to be provided financial assistance as required by GML.
3. Ensure that the uniform criteria requires the ECIDA to prepare a written CBA, which includes all the information required by GML and a comparison of the cost of the requested financial assistance to the intended benefits to the community before approving projects.
4. The Board should ensure that all resolutions approving projects describe the type of financial assistance to be provided and should consider including a description of the amount of financial assistance in such resolutions.
5. The Board should ensure Project Agreements include all information required by GML.
6. Require project owners to annually report the amount invested in their projects and submit supporting documentation of the reported information.
7. Ensure that, at least annually, an assessment is performed to determine whether each active project is progressing toward achieving the investment goals indicated in their project application and that the assessments are provided to them, as required by GML.
8. The Board should update the annual questionnaire to require project owners to record employment information based on the number of FTE jobs.

9. Ensure the CFO prepared and submits ST-60 forms with Board-authorized amounts.

10. Ensure project owners submit a copy of all ST-340 forms to the ECIDA at the time of submission to NYSDTF, as required by Project Agreement.

11. Consult with ECIDA's legal counsel to determine the appropriate course of action for recapturing the sales and use tax exemption benefits claimed by projects that exceeded authorized amounts.

12. Ensure the annual report includes data for all active projects comparing the total sales and use tax and/or mortgage recording tax exemptions claimed over the life of the project to the corresponding Board-approved amounts.

13. The Board should request and review supporting documentation to ensure that the data in the annual report is accurate and complete.

Implementation Plan of Actions to each number recommendation:

1. ECIDA has revised and adopted a new application for financial assistance on March 26, 2025 which included the required definition for full-time equivalent (FTE) jobs.

2. ECIDA has developed and adopted new uniform criteria and selection of projects policy on March 26, 2025.

3. As with previously, the ECIDA Board of Directors are provided with summary of financial assistance application as well as CBA, however, existing CBA did not have the specific language required. During audit, NYS Comptroller's Auditor provided a recommended draft of the CBA, which has now been implemented by ECIDA.

4. The ECIDA Board of Directors includes the amount and type of financial assistance provided to a project in the minutes of the meeting, while not specifically noted in the approving resolution. Beginning in late 2024, the amount and type of financial assistance provided to a project is both in the minutes and discussion of the meeting and also reflected in the approving Board resolution, while not required by GML.

5. The ECIDA attorney and bond counsel were made notified and provided the comments through the NYS Comptroller's audit to ensure compliance in all future projects.

6. Previously the ECIDA required project owners to submit all investment documentation at the conclusion or receipt of Certificate of Occupancy for the project. All project investment has been documented and submitted as required for each project. Beginning on January 1, 2025 the ECIDA now requires project owners to submit with their annual reports documentation of investment to date.

7. The ECIDA Board of Directors will continue to review the project owner's investment documentation during their annual review of projects prior to the submission of the required PARIS report as previously done.

8. ECIDA has revised and adopted a new application for financial assistance on March 26, 2025 which included the required definition for full-time equivalent (FTE) jobs. The ECIDA Board of Directors was previously reviewing both part-time and full-time positions projected on their financial application compared to their annual report submitted. PARIS reporting was submitted as FTE jobs. The ECIDA annual questionnaire was revised for 2024 reporting and businesses began reporting FTE jobs as required.

9. The ECIDA Board of Directors previously reviewed annual sales and use tax reports for each project. Two of the projects reviewed in the audit incurred significant material increases during COVID-19. At the 2021 and 2022 annual board meetings, the ECIDA Board of Directors reviewed the annual reports submitted, discussed and acknowledged but this was not reflected as a formal resolution to increase sales and use tax exemption. As of the date of this Audit the CFO will insure that all ST-60 forms are in conformance the Board-authorized amounts.

10. While the Project Agreements and GML only require project owners to submit annually the required ST-340 form documenting sales and use tax exemptions used for each calendar year, the ECIDA will develop a semi-annual reporting requirement to more effectively track benefits used. This new semi-annual reporting was discussed at the March 26, 2025 meeting and will be implemented on all future approved sales and use tax incentive projects.

11. The ECIDA Board of Directors Uniform Tax Exemption Policy (UTEP) has recapture policy. The ECIDA Board of Directors will review amounts used to date by businesses as submitted as noted in Item 10 and work with business to determine if additional review of the incentives provided will be met or exceeded and further review will by conducted by the ECIDA Board of Directors as per policy.

12. During the audit, NYS Comptroller's Auditor provided comments and assisted with the editing of the annual report submitted to the ECIDA Board of Directors. This new annual report was used in 2025 as Board reviewed the 2024 business reports and will continue.

13. The ECIDA Board of Directors were previously provided a summary of the business reports. The Board will review the annual report information more carefully and request additional information to ensure the annual report is accurate and complete. ECIDA Board of Directors are also provided a copy of the PARIS report once submitted.

Implementation Date:

By Board resolution #2025-24 and #2025-25 the ECIDA Board approved all the changes as of March 26, 2025 unless otherwise noted in the plan of action.

Person responsible for Implementation:

Jody Olcott, CFO of ECIDA ________________ 7/9/2025
Date

ECIDA Board Member ________________ 7/9/2025
Date

Appendix C: Audit Methodology and Standards

We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed ECIDA officials and reviewed various records and reports to gain an understanding of ECIDA's procedures for approving and monitoring projects that were provided financial assistance. We documented any associated effects of deficiencies in those procedures.
- We interviewed ECIDA officials and reviewed Board-adopted policies, Board meeting minutes, ECIDA's application for financial assistance and project agreements to determine whether ECIDA officials developed a standard application form, uniform criteria for the evaluation and selection for each category of projects to be provided financial assistance, a uniform project agreement, policies for the suspension or discontinuance of financial assistance and policies for the return of all or a part of the financial assistance provided for a project in accordance with GML.
- We used our professional judgment to select a sample of nine projects that the Board approved during the audit period to determine whether a standard application form was used by the project applicant; capital investment and/or jobs information included in the application was supported; uniform criteria was used for the evaluation and selection of the project; a written CBA was prepared and included all the information required by GML; for projects requiring more than $100,000 in financial assistance, the Board adopted a resolution, held a public hearing and provided notice in accordance with GML; and before providing financial assistance to the project, ECIDA executed a uniform project agreement with the project owner that included all the information required by GML. Our sample included all projects that were granted sales and use, mortgage recording and/or real property tax exemptions.
- We interviewed ECIDA officials and reviewed supporting documentation of assessments performed from 2017 through 2023 to determine whether officials annually assessed the progress of each project toward achieving the investment, job retention or creation or other objectives of the project indicated in the project application and provided the assessments to the Board in accordance with GML.
- We used our professional judgment to select a sample of four projects the Board approved from 2017 through 2023 to determine whether they met the investment and job retention and/or creation goals agreed to in their project applications as of December 31, 2023. We also reviewed the same sample of projects to determine whether the jobs data that was recorded in the 2023 annual report provided to the Board for these projects was accurate. Our sample included all projects that were granted sales and use, mortgage recording and/or real property tax exemptions, still active as of December 31, 2023 and for which construction had commenced.
- We reviewed all seven projects that were approved and granted sales and use tax exemptions from 2017 through 2023 to determine whether the exemption amounts recorded on the ST-60 forms for these projects agreed with the Board-authorized amounts. We also compared the exemption amounts authorized on the ST-60 forms for these projects to the exemptions reported claimed by the projects to determine whether any projects exceeded the authorized amounts as

of December 31, 2023. For any projects that exceeded the authorized amounts, we determined whether the excess amounts were recaptured, as required by GML. We also reviewed the same projects to determine whether the sales and use tax exemptions data recorded in the annual reports provided to the Board for these projects was accurate.

- We reviewed all three projects that were approved and granted mortgage recording tax exemptions from 2017 through 2023 to determine whether the exemptions claimed by the projects exceeded the authorized amounts as of December 31, 2023. We also reviewed the same projects to determine whether the mortgage recording tax exemptions data recorded in the annual reports provided to the Board for these projects was accurate.

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.

Contact

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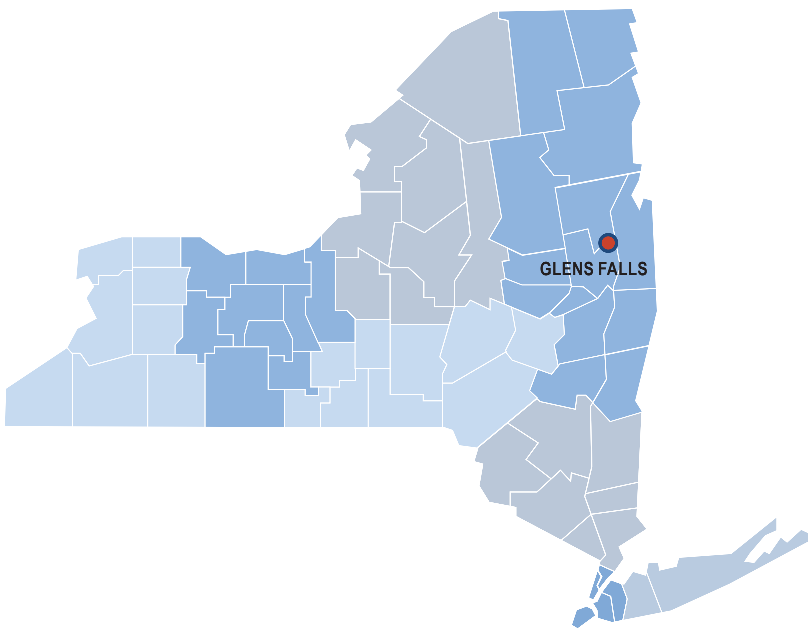

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