

Onondaga County Industrial Development Agency

Project Approval and Monitoring

NOVEMBER 2019



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

Contents

- Report Highlights 1**

- Project Approval and Monitoring 2**
 - How Should The Board Approve Projects? 3
 - The Board Properly Evaluated Projects Prior to Approval 3
 - How Can Officials Monitor Whether Project Goals Are Met? 5
 - OCIDA Could Improve Its Monitoring and Verification of Project Performance 5
 - How Can Officials Monitor Sales Tax Exemptions? 8
 - OCIDA Did Not Recapture All Unauthorized Sales Tax Exemptions 8
 - What Do We Recommend? 9

- Appendix A – Additional Project Information 11**

- Appendix B – Response From IDA Officials 12**

- Appendix C – OSC Comments on the IDA’s Response 16**

- Appendix D – Audit Methodology and Standards 17**

- Appendix E – Resources and Services 19**

Report Highlights

Onondaga County Industrial Development Agency

Audit Objective

Determine whether the Board appropriately evaluated projects prior to approval and subsequently monitored the performance of businesses that received financial benefits.

Key Findings

- The Board properly evaluated projects prior to approving financial benefits.
- The Board could improve its monitoring and verification of project performance related to job creation and capital investment.
- Four companies received sales tax exemptions that exceeded approved amounts by a total of \$173,446. Of this amount, officials properly recaptured \$97,020 from one company.

Key Recommendations

The Board should:

- Ensure that reported employment levels are verified and supported.
- Develop procedures to monitor that companies' actual capital investments are consistent with those specified on the applications and used in the cost-benefit analysis.
- Continue to compare the actual sales tax exemptions claimed by companies with the amounts authorized by the Board.
- Recapture the sales tax exemption benefits from companies who have exceeded the amounts authorized.

IDA officials disagreed with how we presented the findings in the report. Appendix C includes our comments on the issues raised in the IDA's response letter.

Background

The Onondaga County Industrial Development Agency (OCIDA) is an independent public benefit corporation established in 1970.

OCIDA's Board is composed of seven members, who are appointed by the County Legislature and responsible for OCIDA's general management and financial and operational affairs. The Board-appointed Executive Director (Director) serves as the chief executive officer, and the Treasurer serves as the chief financial officer. Together, they are responsible for day-to-day operations. OCIDA funds its operations primarily with fees charged for processing applications and for administering financial assistance.

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

Quick Facts

2017 Reported Projects	83
2017 Tax Exemptions Granted	\$20.4 million
2017 PILOT Payments	\$9 million

Audit Period

January 1, 2014 – January 31, 2019

Project Approval and Monitoring

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

According to its mission statement, OCIDA was established to stimulate economic development, growth and general prosperity for the people of Onondaga County by using available incentives, rights and powers in an efficient and cooperative manner. OCIDA offers financial assistance to businesses, including real property, mortgage recording and sales tax exemptions, by generally taking title or entering into lease-leaseback agreements of the property owned or leased by the business,³ facilitating the provision of the financial assistance as the property is tax-exempt under the IDA statute. In return, many projects receiving OCIDA financial assistance promise to create new jobs or retain existing jobs in the community, invest in new buildings or in the renovation of existing buildings, and agree to make annual PILOT payments for affected tax jurisdictions (municipalities or school districts) to help offset the loss of revenues from the tax exemptions provided. Payments are made in accordance with PILOT agreements governed by OCIDA's Uniform Tax Exemption Policy (UTEP).

When a company submits an application, OCIDA staff typically meet with the applicants to discuss the scope of the project and familiarize the applicant with OCIDA's process, procedures and policies. The Director and staff review project applications for compliance with the UTEP and distribute a copy of the application and documentation to the Board and OCIDA's legal counsel. The applicant then prepares and provides a preliminary presentation to the Board, which asks questions, requests supplemental information if needed, and provides direction to staff. Next, the Agency holds a public hearing, providing the public with an opportunity to make comments. Last, assuming the project has met requirements,

1 GML Section 858

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

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

the Board considers the analysis and recommendations of OCIDA staff and public comments from the public hearing before taking action and determining whether a project and the financial assistance is in the community's best interest.

How Should The Board Approve Projects?

Tax exemptions provided through the IDA lease-leaseback agreements often result in a significant cost to the community; as such, 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, which should be consistently applied when making project selection decisions for the same type of projects. IDAs are required to establish a UTEP to provide the board with detailed guidelines for the claiming of tax exemptions and to provide a mechanism to offer exemptions on a consistent basis.

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

As part of its process for approving or denying financial assistance to project applicants, the board should have a mechanism to determine whether any IDA officials would have a financial interest in the potential project. Therefore, the board should adopt a code of ethics policy that defines potential conflicts of interest. In addition, board members should complete and file financial disclosure forms so that the board's selection of projects does not create the appearance of impropriety.

The Board Properly Evaluated Projects Prior to Approval

OCIDA has established criteria for selecting firms or businesses receiving sponsorship and economic development incentives and has consistently applied its criteria. The Board has established its UTEP, which includes written criteria the Board uses (e.g., jobs to be created, capital investment and additional revenue sources for municipalities) for evaluating all projects under consideration. The UTEP further describes the types of projects eligible for assistance and the levels of tax abatements and exemptions that are available. The UTEP also allows deviations when the Board deems them necessary. These policies are specific and clearly articulate project goals and abatement schedules. To be considered for financial assistance, OCIDA requires businesses seeking benefits to complete a standardized project application. The application requires pertinent business

information, such as the description of the project, the project's goals, jobs to be created and retained, financial assistance being applied for, and estimated project costs.

Board members told us they consider all criteria under the UTEP when evaluating an applicant and also evaluate management's experience and integrity for those companies already operating in Central New York. OCIDA prepares a CBA and considers such factors as the estimated abatements the project will likely receive (costs to the community) and the creation or retention of jobs, generation of private sector capital investment, and additional sources of revenues that will result because of the project (benefits to the community). Board members told us they also evaluate the likelihood that the project could not be undertaken without financial assistance provided by OCIDA.

OCIDA took title to properties for 27 projects from 2014 through 2017 that were still active as of December 31, 2017. We reviewed the application file for 10 of these projects⁴ and found that each application was complete and contained the information necessary to address the criteria in the UTEP. We reviewed Board minutes applicable to the 10 projects, which routinely evidenced the Board's discussion and evaluation of various criteria such as jobs to be created and retained, new construction and redevelopment, equipment to be acquired, tax exemptions sought, and reasons why IDA assistance is necessary. OCIDA's CBA for each applicant showed that the estimated benefits to the community exceeded the cost of the requested assistance. Also, each application included the companies' responses regarding whether there was a likelihood that the project would not have been undertaken without the financial assistance provided, or otherwise why OCIDA should undertake the project.

All Board members filed a financial disclosure form for each of the 10 new projects listed above while under consideration to certify the absence of a financial interest in the company.⁵ In addition, the application includes a conflict of interest section, signed by an applicant representative, attesting that the applicant has received a listing of OCIDA members, officers and staff and also that none of the individuals have an interest, whether direct or indirect, in any transaction contemplated by the application. OCIDA's use of financial disclosure forms and the conflict of interest attestation in the application helps to promote transparency and identify any potential conflicts of interests that OCIDA officials need to address.

⁴ See our sampling methodology in Appendix D.

⁵ OCIDA's code of ethics defines potential conflicts, and also requires formal disclosure of any potential interest of its officers, employees and members.

How Can Officials Monitor Whether Project Goals Are Met?

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

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

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

OCIDA Could Improve Its Monitoring and Verification of Project Performance

OCIDA includes provisions in its applications and leaseback agreements that require companies to submit an annual survey (employment report) if OCIDA provides financial assistance. These reports disclose the total number of full-time equivalent (FTE) employees at the project location as of the end of the calendar year,⁶ the average employee wage rate, the number of FTE construction jobs created, the sales tax and mortgage recording tax exemptions received during the year and information on outstanding OCIDA bonds and notes (if applicable). A company representative is required to certify that the company has complied with all provisions of its agreement with OCIDA and that the information provided in the annual employment report is accurate and correct.

⁶ The survey defines an FTE employee as a full-time, permanent, private sector employee on the payroll who has worked at the project location for a minimum of 35 hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by the company; or, two part-time, permanent employees who have worked for a combined minimum of 35 hours per week and who are entitled to receive usual and customary fringe benefits extended by the company to other employees with comparable duties.

OCIDA requires companies to submit NYS-45⁷ payroll tax forms for the last quarter of the year as supporting documentation for the annual employment report. The NYS-45 shows annual gross wages paid and employment counts, and includes both full- and part-time employees. The Treasurer told us he reviews the NYS-45 to provide a “reasonableness check” for the number of employees and average wage rate provided by the company. While the NYS-45 may be helpful to identify obvious reporting issues (for example, the FTE reported by the company exceeds the total full- and part-time employee count in the NYS-45), it may not always be sufficient to verify the number of FTEs and average wage reported by all companies.

We reviewed the 2018 employment reports and the NYS-45 forms submitted by 27 companies and found the reported FTE counts and average salaries were generally reasonable. However, four companies submitted NYS-45 forms that included employees who do not work at the project site subject to OCIDA assistance because the companies operated at more than one location in the State. Also, we identified one company that provided a NYS-45 form showing employee counts and salary totals which did not reasonably support the average salary and FTE count in the company’s employment report.

Although the NYS-45s submitted by these five companies did not support their employment reports, OCIDA officials did not request additional information to verify the employment information. Without assurance that reported job numbers represent actual jobs created or retained, the Board cannot ensure that the community is receiving the expected benefits.

In addition, OCIDA does not require companies to provide periodic progress reports or other documentation to evidence their actual capital investments. OCIDA officials told us they routinely conduct an on-site visit at each company to discuss financial operations and to observe any new construction or equipment. They generally make this visit as part of the company’s “ribbon-cutting” ceremony when construction phase of the project is complete. However, this does not enable OCIDA officials to verify the level of capital investment is consistent with the amounts included in the application and the amounts used by OCIDA in the CBA when the projects were being considered for approval. The amount of capital investment could eventually impact the assessed value of a project’s real property and affect the amount of taxes that the local taxing jurisdictions will receive after the facility is constructed or renovated and no longer exempt from taxes. Therefore, it is important that OCIDA officials verify the amount of capital that the project applicants actually invest.

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

The Treasurer enters the current employee count from the annual project report into a spreadsheet to compare to the job goals for each project. Annually, the Treasurer forwards the Board the tracking spreadsheet, which identifies companies that are meeting or exceeding job creation and retention commitments as stated in the application, and any companies that are not meeting their job creation and retention commitments. The Board considers there to be a job shortfall if a company is not meeting 100 percent of projected total jobs. OCIDA's UTEP allows the Board to recapture the value of real property, sales and mortgage recording tax benefits if the company has not met 75 percent of its total job commitment for jobs to be created and retained within two years of project completion (i.e., receipt of certificate of occupancy). The Treasurer told us that for projects not meeting 100 percent of projected jobs, he follows up with the company as to the reasons for the shortfall and communicates this information to the Board.

We reviewed the job performance for 26 of the 27 projects⁸ by comparing the job retention and creation estimates in the original application to annual employment reports for the period ended December 31, 2018. We found 18 projects met or exceeded 100 percent of their required estimated job goals, five projects created and retained over 75 percent and three projects did not reach 75 percent of estimated job goals.⁹ Even though these three projects have not met 75 percent of their job goals, they were completed less than two years ago at the time of our review, so were not yet subject to the recapture provisions. The 26 projects had estimated a total of 3,116 jobs and they reported that they actually created and retained 3,493 jobs, 377 (12 percent) more jobs than initially predicted. In addition, we compared the salary goals stated in the application for our 10 sampled projects to annual employment reports and found that the salaries estimated in the application were approximately the same as the wage rates in the employment reports.

Because OCIDA is monitoring performance data on employment, it is able to identify a business performance shortfall which helps the Board decide what course of action to take when a company is not achieving the established employment goals. However, it is important that OCIDA officials ensure the performance data is reliable by verifying the information to supporting documentation.

⁸ We did not test one of the 27 projects because it was not yet complete as of the December 31, 2018 cut-off.

⁹ See Appendix A for detail project information.

How Can Officials Monitor Sales Tax Exemptions?

When an IDA board approves sales tax exemptions for a project, the IDA is required to file form ST-60 with the New York State Department of Taxation and Finance (Tax Department), which relates to the appointment of the project operator or other person to act as its agent for sales and use tax exemption purposes. The form contains a description and estimated value of goods and services that will be exempt from sales and use tax and the estimated value of the sales and use tax exemption provided. Project owners are required to annually report the actual sales and use tax savings to the Tax Department on form ST-340.

GML¹⁰ requires IDAs to recapture any sales tax benefits that are in excess of the amount authorized by the IDA and to remit the funds to the Tax Department. Therefore, it is important for an IDA to have a process in place to monitor the sales and use tax exemptions claimed by each project. To do this, the IDA needs to determine the amount reported by projects each year and calculate the total amount reported over the life of the project. That total must then be compared to the amount of sales tax exemptions reported on the ST-60, which should agree with the amount approved by the IDA board for the project.

OCIDA Did Not Recapture All Unauthorized Sales Tax Exemptions

OCIDA uses information contained in project applications, in regard to construction and equipment costs, to determine the amount of sales and use tax exemptions the Board will authorize. The company signs an agent agreement with OCIDA whereby the company agrees to annually file ST-340 forms and cooperate with OCIDA to recover or recapture any sales tax exemption benefits that are in excess of the amounts authorized.

We compared the estimated sales tax exemptions of approximately \$20.5 million, from ST-60 forms, to the \$10.1 million in actual sales tax savings for all 27 properties OCIDA had taken title to from 2014 through 2017. Twenty-three properties received actual sales tax savings as of December 31, 2018 which were less than the amount authorized; however, four properties exceeded the amount of tax exemptions allowed by \$173,446, or 9 percent (Figure 1).

¹⁰ GML Section 875(3)

Figure 1: Comparison of Authorized and Reported Sales Tax Exemptions

Company Reporting	Sales Tax Exemptions Authorized	Actual Sales Tax Exemptions Reported	Difference	Year the Authorized Exemption Amount was Exceeded
Towne Center Retirement Community, LLC	\$770,661	\$867,681	\$97,020	2017
INFICON, Inc.	\$600,000	\$660,251	\$60,251	2015
6593 Weighlock Drive, LLC	\$433,010	\$447,585	\$14,575	2016
Antonino Holdings, LLC	\$46,400	\$48,000	\$1,600	2016
Totals	\$1,850,071	\$2,023,517	\$173,446	

OCIDA’s Treasurer (who took office in May 2016) receives the annual ST-340 reports from companies with the annual employment reports and uses them to monitor sales tax exemptions. In early 2018, he began entering the actual sales and use tax savings reported by companies for the 2017 calendar year into a spreadsheet for tracking purposes. He compares the total of tax savings received, over the project term, to the amount authorized in the ST-60 form to identify those companies that are close to reaching their limit, or those who have exceeded the authorized amount. OCIDA officials told us they call companies, as a courtesy, to inform them when they are close to reaching their limit.

Prior to our fieldwork, OCIDA officials identified that the Towne Center Retirement Community, LLC had exceeded the amount of sales tax savings authorized in 2017, based on the ST-340 forms submitted in February 2018. OCIDA had properly recaptured the \$97,020 in excess sales tax exemptions and remitted the taxes to the Tax Department. However, officials did not identify the other three companies which exceeded their limits in 2015 and 2016. These companies did not report any sales tax exemptions in 2017, so they were not included in the Treasurer’s tracking spreadsheet. The Director and Treasurer explained OCIDA now actively monitors sales tax exemptions and follows up with companies that are close to reaching, or that have exceeded, approved amounts.

What Do We Recommend?

The Board should:

1. Ensure that reported employment levels are verified and supported.
2. Develop procedures to monitor and ensure that companies’ actual capital investments are consistent with those specified on the applications and used in the CBA.

-
3. Continue to compare the actual sales tax exemptions claimed by companies with the amounts authorized by the Board.
 4. Recapture the sales tax exemption benefits claimed by companies that have exceeded the amounts authorized by the Board and remit the funds to the Tax Department.

Appendix A: Additional Project Information

Figure 2: Additional Project Information¹¹

Project Name	FTEs Before IDA Status	Estimated Job Creation ^a	Estimated Jobs to be Retained ^b	Total Jobs Estimated	12/31/18 Reported Jobs	Reported Jobs Over/ (Short) of Total Jobs Estimated	Percentage Reported Jobs/ Total Jobs Estimated
SEKO Logistics	5	5	5	10	23	13	230%
Towne Center Retirement Community, LLC	0	10	0	10	20	10	200%
JMA Wireless	105	120	105	225	409	184	182%
Syracuse Apartments LLC	0	3	0	3	5	2	167%
Morgan B-ville Apartments, LLC^a	0	4	0	4	6	2	150%
Cintas Corporation No 2	66	44	66	110	153	43	139%
Tessy Plastics (Van Buren)	144	50	144	194	252	58	130%
Destiny USA Hotel	0	74	0	74	88	14	119%
8324 Oswego Road LLC	89	12	89	101	120	19	119%
Syracuse Label	78	0	78	78	89	11	114%
Rock Tenn Solvay Mill	240	6	240	246	274	28	111%
Shining Stars Day Care Inc.^a	17	2	0	19	21	2	111%
G&C Foods Expansion	215	85	215	300	319	19	106%
O'Connell Electric^a	101	15	101	116	119	3	103%
Welch Allyn, Inc.	884	109	500	993	1,016	23	102%
Old Thompson Road LLC^d	119	14	119	133	134	1	101%
Etna Development Company	0	20	0	20	20	0	100%
INFICON, Inc.^a	240	23	240	263	263	0	100%
Morse Manufacturing Co., Inc.	35	0	35	35	34	(1)	97%
6006 Fair Lakes Hotel, LLC^a	0	31	0	31	29	(2)	94%
Barbagallo's Tavern Inc. Sleep Inn^a	0	15	0	15	14	(1)	93%
Prima Terra Properties^a	0	30	0	30	27	(3)	90%
6593 Weighlock Drive LLC^a	0	25	0	25	20	(5)	80%
Antonino Holdings LLC^{a,c}	7	2	7	9	6	(3)	67%
CP 850 LLC^{a,c}	1	1	1	2	1	(1)	50%
BlueRock Energy Inc.^{a,c}	67	3	67	70	31	(39)	44%
Total	2,413	703	2,012	3,116	3,493	377	

(a) OCIDA's applications include a three- to five-year job chart which estimates the number of FTEs to be added by the end of each year. If a company had not yet met its total job creation goal for the project, then Estimated Job Creation for that company reflects the goal that was in effect as of December 31, 2018 (for example, the year 1 or year 2 goal).

(b) Jobs to be retained by the company as a result of OCIDA's financial assistance. Not all companies need financial assistance to retain all of their employees (FTEs before IDA status)

(c) Even though these projects have not met 75 percent of their job goals, they were completed less than two years ago at the time of our review so were not yet subject to the recapture provisions.

(d) According to OCIDA officials, this company had erroneously reported 304 jobs for its 2018 Reported Jobs. The correct 2018 Reported Jobs is 134.

¹¹ We obtained information in the first three columns from the submitted applications. We obtained information in the 12/31/18 Reported Jobs column from annual company survey reports.

Appendix B: Response From IDA Officials



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OCTOBER 16, 2019

Rebecca Wilcox
Chief Examiner
State Office Building, Room 409
333 E. Washington Street
Syracuse New York 13202

Dear Rebecca,

This letter is a response to the draft audit report recently issued by the Office of the State Comptroller (OSC). The Onondaga County Industrial Development Agency (OCIDA) is proud of the work we do to help Onondaga County prosper. We are excited to share our story of success and we thank you and your team for your hard work and the role you play in sharing our story.

The OSC Audit showed that OCIDA projects deliver on job creation.

Throughout the audit process the OSC team performed several tests of OCIDA's operations. The audit results illustrate the highly competent, professional and effective work of the Agency. In particular, on page eight the report describes how the OSC team took an in depth look at the job creation efforts of twenty six OCIDA projects. The report states:

“The 26 projects had estimated a total of 3,116 jobs and they reported that they actually created and retained 3,493 jobs, 377 (12 percent) more jobs than initially predicted. In addition, we compared the salary goals stated in the application for our 10 sampled projects to annual employment reports and found that the salaries estimated in the application were approximately the same as the wage rates in the employment reports.”

The OSC Audit found that OCIDA properly evaluated projects prior to approval.

The OCIDA takes great pride in the clarity with which projects are organized and presented. This hard work is showcased throughout the project evaluation process. The OSC's audit devotes considerable time to examining the process by which the OCIDA Board evaluates projects prior to approval. OSC concluded that OCIDA properly evaluated projects prior to approval.

More specifically, OSC made the following positive statement about OCIDA:



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OCTOBER 16, 2019

The Board Properly Evaluated Projects Prior to Approval

OCIDA has established criteria for selecting firms or businesses receiving sponsorship and economic development incentives and has consistently applied its criteria. The Board has established its UTEP, which includes written criteria the Board uses (e.g., jobs to be created, capital investment and additional revenue sources for municipalities) for evaluating all projects under consideration. The UTEP further describes the types of projects eligible for assistance and the levels of tax abatements and exemptions that are available. The UTEP also allows deviations when the Board deems them necessary. These policies are specific and clearly articulate project goals and abatement schedules. To be considered for financial assistance, OCIDA requires businesses seeking benefits to complete a standardized project application. The application requires pertinent business information, such as the description of the project, the project's goals, jobs to be created and retained, financial assistance being applied for, and estimated project costs.

Board members told us they consider all criteria under the UTEP when evaluating an applicant and also evaluate management's experience and integrity for those companies already operating in Central New York. OCIDA prepares a CBA and considers such factors as the estimated abatements the project will likely receive (costs to the community) and the creation or retention of jobs, generation of private sector capital investment, and additional sources of revenues that will result because of the project (benefits to the community). Board members told us they also evaluate the likelihood that the project could not be undertaken without financial assistance provided by OCIDA.

OCIDA took title to properties for 27 projects from 2014 through 2017 that were still active as of December 31, 2017. We reviewed the application file for 10 of these projects⁴ and found that each application was complete and contained the information necessary to address the criteria

in the UTEP. We reviewed Board minutes applicable to the 10 projects, which routinely evidenced the Board's discussion and evaluation of various criteria such as jobs to be created and retained, new construction and redevelopment, equipment to be acquired, tax exemptions sought, and reasons why IDA assistance is necessary. OCIDA's CBA for each applicant showed that the estimated benefits to the community exceeded the cost of the requested assistance. Also, each application included the companies' responses regarding whether there was a likelihood that the project would not have been undertaken without the financial assistance provided, or otherwise why OCIDA should undertake the project.

All Board members filed a financial disclosure form for each of the 10 new projects listed above while under consideration to certify the absence of a financial interest in the company.⁵ In addition, the application includes a conflict of interest section, signed by an applicant representative, attesting that the applicant has received a listing of OCIDA members, officers and staff and also that none of the individuals have an interest, whether direct or indirect, in any transaction contemplated by the application. OCIDA's use of financial disclosure forms and the conflict of interest attestation in the application helps to promote transparency and identify any potential conflicts of interests that OCIDA officials need to address.



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The OSC Audit does not sufficiently highlight OCIDA's contribution to the community.

OCIDA's work, with little doubt, contributes to the prosperity of Onondaga County. Yet, even though the OSC's audit results reveal the agency's projects realized robust job creation numbers, often exceeding job goals for individual projects, OCIDA's success in this regard was not prominently reported in the audit. OCIDA is disappointed that its stellar job creation record is not disclosed until page 8, buried at the end of the section titled "OCIDA could improve its Monitoring and Verification of Project Performance." Consistent with OSC's generally balanced draft audit report, it would seem this information deserves to be highlighted in the "Report Highlights" section.

See
Note 1
Page 16

The OSC Audit does not properly communicate the activities of the IDA.

OCIDA also takes objection to the statement on page 4 of the draft report which states, "Tax Exemptions provided through the IDA lease-leaseback agreements often result in a **significant cost** to the community." As stated in the draft report, the OCIDA board evaluates all projects with an awareness of and giving serious consideration to the "but for" test. Therefore, it is reasonable to conclude that these projects as described in the application would not have been undertaken without OCIDA support. Moreover, OCIDA never reduces the existing tax on a property, only new capital investment is considered for a PILOT. Given these facts and the recognition that projects relieved of property tax obligations will pay revenue to the community under a PILOT, will provide increased job opportunities and will incentivize new capital investment, one can convincingly argue that IDA project agreements often result in significant benefit to the community, the opposite of the contention OSC makes on page 4. OCIDA would respectfully ask that this objectionable statement be removed from the final report or changed to reflect the reality of the benefits the 27 audited OCIDA projects have yielded to this community.

See
Note 2
Page 16

The OSC Audit mischaracterizes the results of the OCIDA project monitoring efforts.

On page 7 the OSC report states that,

"Also, we identified one company that provided a NYS-45 form showing employee counts and salary totals which did not reasonably support the average salary and FTE count in the company's employment report."

The OCIDA reviewed this project data with the OSC and strongly disagrees with this interpretation. The OCIDA was provided a NYS-45 form that, in OCIDA's opinion, reasonably agrees with the survey response of the company. Given this evidence, the OCIDA does not believe there is a need for further documentation from the project applicant. The OCIDA would like to remind the OSC that businesses contend with enough red tape and requiring additional documentation when the existing documentation agrees with the applicant's survey response would be unnecessary and counterproductive to the business climate in Onondaga County.

See
Note 3
Page 16



ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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In conclusion, the OCIDA thanks the OSC for their time and effort in analyzing and reviewing the OCIDA's operations. We are generally satisfied with the OSC draft audit report which illustrates, when read carefully, the professionalism, integrity and effectiveness that characterize the work of OCIDA.

Very truly yours,

Robert Petrovich
Executive Director

Appendix C: OSC Comments on the IDA's Response

Note 1

The Report Highlights section of our report accurately reflects the key findings related to our audit objective, which focused on the Board's evaluation of projects prior to approval and its subsequent monitoring of performance.

Note 2

The tax exemptions we refer to as costs to the community include the sales tax, mortgage tax and real property exemptions received by companies less the PILOT payments made by the companies. In 2017, OCIDA reported that its sponsored projects received net tax exemptions valued at \$11.4 million. The cost-benefit analysis completed by OCIDA officials for the 10 projects we reviewed recognized the tax exemptions as costs to the community. Our report also acknowledges that many projects that receive financial assistance offer benefits to the community such as job creation and retention and private sector capital investments in new and existing buildings.

Note 3

The NYS-45 form submitted by the company did not include any detail to discern how many employees were considered FTEs. Additionally, the average salary for all employees counted on the NYS-45 was \$29,122, while the average salary reported in the company's employment report was \$43,714. Therefore, we concluded that the company's employment report was not reasonably supported.

Appendix D: 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, we performed the following audit procedures:

- We interviewed OCIDA officials and Board members and reviewed OCIDA's UTEP, policies and Board minutes to gain an understanding of the project approval process.
- We obtained an understanding of how OCIDA tracks and monitors the performance of each project receiving benefits and we identified the types of performance shortfalls and the parameters used by the Board when deciding whether to initiate recapture.
- We identified all 27 properties that OCIDA took title to for projects from 2014 through 2017 that were still active (receiving benefits) as of December 31, 2017.
- We selected 10 of the 27 projects to include a variety of business purposes including manufacturing, warehousing, hotel, apartments and services. We included three projects that were started after June 15, 2016 and were therefore subject to new IDA legislation. We reviewed the application file for these 10 projects to determine whether the application was complete and contained the information necessary to address the criteria in the UTEP, and whether OCIDA officials completed a cost-benefit analysis for each project. We also reviewed Board meeting minutes applicable to these projects to help determine whether evaluation criteria was consistently applied. We compared the names of OCIDA officials with project documentation to identify any potential conflicts of interest and reviewed financial disclosure forms.
- We reviewed the job creation and retention performance for 26 of the 27 projects to identify whether each company met its job commitments as of December 31, 2018. We did not test the other project because it was not yet complete as of the December 31, 2018 cut-off. We evaluated whether any of the projects reviewed were subject to recapture of benefits for job shortfalls pursuant to the UTEP and leaseback agreements.
- For all 27 projects that OCIDA took title to from 2014 through 2017, we compared approved sales tax amounts on ST-60 forms to actual exemptions reported to determine whether any projects had exceeded the approved exemption amounts. We inquired to determine whether OCIDA had attempted to invoke recapture provisions and reviewed payments to the Tax Department showing that OCIDA had invoked recapture penalties for one company that had exceeded the approved sales tax exemption limit.

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 OCIDA's office.

Appendix E: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/pubs/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/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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

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

www.osc.state.ny.us/localgov/index.htm

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

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