



Wyoming County Industrial Development Agency

Project Management

Report of Examination

Period Covered:

January 1, 2013 – February 17, 2015

2015M-62



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	1
INTRODUCTION	2
Background	2
Objective	3
Scope and Methodology	3
Comments of Agency Officials and Corrective Action	3
PROJECT MANAGEMENT	4
Project Review and Approval	4
Administrative Fees	6
Monitoring	7
Recommendations	9
APPENDIX A Wyoming County IDA Projects	11
APPENDIX B Response From Agency Officials	12
APPENDIX C OSC Comment on the Agency's Response	16
APPENDIX D Audit Methodology and Standards	17
APPENDIX E How to Obtain Additional Copies of the Report	19
APPENDIX F Local Regional Office Listing	20

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

September 2015

Dear Agency Officials:

A top priority of the Office of the State Comptroller is to help local officials manage government resources efficiently and effectively and, by so doing, provide accountability for public dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments and certain other public entities statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard governmental assets.

Following is a report of our audit of the Wyoming County Industrial Development Agency, entitled Project Management. This audit was conducted pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for agency officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

Industrial development agencies (IDAs) are independent public benefit corporations whose purpose is to promote, develop and assist in acquiring, constructing, improving and maintaining or equipping certain facilities, thereby advancing the job opportunities, health, general prosperity and the economic welfare for the people of the State.

The Wyoming County Industrial Development Agency (WCIDA) was created in 1974¹ to further economic development in Wyoming County (County). According to its mission statement, the purpose of WCIDA is to encourage and increase private investment that creates new job opportunities, retain and stabilize the existing employment base, and generate added tax revenues through increased economic activity in the County. WCIDA is governed by a seven-member Board of Directors (Board) appointed by the County Board of Supervisors.

The Board is responsible for the general management and control of WCIDA's financial and operational affairs. An Executive Director and a Director of Operations together manage WCIDA's day-to-day affairs. WCIDA's primary source of revenue is administrative fees from approved projects, estimated at \$410,000 for 2015. WCIDA also receives revenue from grants and management fees, estimated at \$200,000 in grants and \$90,000 in management fees for 2015.

WCIDA generally assumes the title of the real and personal property owned by the businesses that are involved in approved projects, thereby allowing WCIDA to offer benefits to these businesses (i.e., sales and use tax exemptions, mortgage recording tax exemptions and real property tax exemptions). WCIDA is not required to pay taxes or assessments on any property it acquires or that is under its jurisdiction, control or supervision. To help offset the loss of revenues from the tax exemptions and abatements, businesses enter into a payment in lieu of taxes (PILOT)² agreement on approved projects governed by WCIDA's Uniform Tax Exemption Policy (UTEP). WCIDA reported 32 active projects during our audit period, with reported capital investment totaling approximately \$873 million.

The objective of our audit was to review WCIDA's process for

¹ Under General Municipal Law

² PILOTs are amounts paid for certain tax-exempt parcels in lieu of real property taxes that would otherwise have been paid, had the property not been tax-exempt.

Objective

evaluating, approving and monitoring projects. Our audit addressed the following related question:

- Does the Board properly evaluate and award projects, collect administrative fees and monitor the performance of projects that received financial benefits?

Scope and Methodology

We examined WCIDA's records and project files for the period January 1, 2013 through February 17, 2015. We also analyzed documents for projects initially sponsored as early as 2006 that were still active during our audit period.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix D of this report. 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.

Comments of Agency Officials and Corrective Action

The results of our audit and recommendations have been discussed with Agency officials and their comments, which appear in Appendix B, have been considered in preparing this report. Except as specified in Appendix B, Agency officials generally agreed with our recommendations. Appendix C includes our comment on an issue raised in the Agency's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. 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 this plan available for public review in the Executive Director's office.

Project Management

The Board is responsible for the approval and monitoring of projects. Because tax benefits granted by IDAs result in a cost to the community, it is important for IDAs to consider more than just eligibility and develop project criteria that should be consistently applied when making project approval decisions. IDAs should also establish procedures to properly bill and collect the administrative fees on approved projects as well as monitor ongoing project performance to ensure that the community is benefiting from the businesses' activities.

We found that WCIDA did not adequately evaluate, approve or monitor projects, and did not properly bill for administrative fees. The Board did not consistently follow criteria established in the UTEP or compare submitted project applications to such criteria. WCIDA officials also did not ensure that all projects were permissible IDA projects in accordance with statutory requirements, and did not request sufficient data or verify the data reported by projects annually to evaluate project performance. Therefore, the Board cannot be assured that the community is receiving the expected benefits or that WCIDA is collecting all revenue to which it is entitled.

Project Review and Approval

General Municipal Law (GML) requires IDAs to establish a UTEP which provides guidelines for the claiming of real property, mortgage recording and sales tax exemptions. The UTEP must include the period of exemptions, percentage of exemptions, types of projects for which exemptions can be claimed, procedures for PILOTS, and circumstances under which real property appraisals are required. In effect, the UTEP provides guidelines for making project approval or denial decisions. The UTEP should include specific criteria for evaluating each project application based on public interest. GML also provides that only certain types of projects are eligible for IDA assistance.

The Board adopted a UTEP, last updated in 2006, stating the Board will consider and approve eligible projects that meet four criteria. Applicant projects must demonstrate a "convincing need" for IDA involvement, have a goal of creating or retaining "significant"³ new jobs, should generally have total project costs that exceed \$500,000, and "preferably" contribute to the revitalization of economically and physically distressed areas. The UTEP does not indicate, and WCIDA officials have not documented, specific criteria for demonstrating a

³ The UTEP does not specifically define "significant."

convincing need for IDA involvement, and significant job creation or retention. Without such specific criteria, the Board is unable to demonstrate that the factors applied in granting approval to projects were consistent with the underlying purpose of the UTEP criteria in order to ensure the projects' eligibility.

Businesses seeking financial assistance from WCIDA are required to complete a project application detailing the project, capital investment, and jobs to be created and retained. The Executive Director and Director of Operations review the application to ensure it meets the UTEP criteria, and provide a project application summary to the Board for its review and approval or denial. We reviewed the 15 project applications submitted⁴ for a sample of 10 projects⁵ that were active during our audit period and found that the Board is not documenting the reason for approval. Specifically, there was no documentation of a determination that projects showed a "convincing need" for IDA involvement. Also, project costs for seven businesses did not exceed the \$500,000 threshold.

WCIDA has not ensured that the conversion of 28,000 square feet of a vacant mill into an office building is for a proper IDA purpose. IDA projects may include, among other things, commercial facilities. In general, these are facilities used for trade or profit-making activities, and could include, in a proper case, an office building. In our view, however, a public facility for use by a municipal corporation in the performance of its governmental functions does not fall within the scope of a "commercial" project for purposes of the IDA statute.⁶ Further, facilities owned or occupied by not-for-profit corporations are no longer specifically listed in the GML as proper IDA projects.⁷

WCIDA's April 2014 resolution in connection with the project refers to the facility as an "office building."⁸ In addition, the Executive Director has stated that the building "is not uniquely a 'municipal facility' and can be used for any type of office function." However, there is evidence that it is intended that the County end up with sole title to the building. There is a "lease" agreement in place between the project owner and the County under which the County would acquire title to the building for nominal consideration at the end of the lease

⁴ Three businesses submitted two applications each, one business submitted three applications and six businesses submitted one application each.

⁵ Refer to Appendix D for further information on our sample selection.

⁶ See, e.g., OSC Opinion No. 91-13.

⁷ The IDA statute at one time included "civic facilities" within the type of projects for which IDAs could provide financial assistance. A "civic facility" was defined as a facility "owned or occupied by a not-for-profit corporation." The authority for IDAs to provide financial assistance for "civic facilities" expired in 2008.

⁸ This project is titled, "Center Street Business Center."

term.⁹ Moreover, WCIDA’s project application summary describes the project as a “building [that] will house Wyoming County’s proposed Agriculture and Business Center of Excellence; enabling the County to co-locate Agriculture and Economic Development services in one building.” It appears that the “Employment Impact” in the application refers only to the expected hiring of County employees.

To the extent there may be other entities located as tenants in the building, it is not yet clear that they will be commercial enterprises.¹⁰ WCIDA officials informed us that they are not yet privy to the entire list of tenants. Currently, the only other tenant is a federal agency. A County Local Law relating to the “lease” indicates that several County departments, as well as WCIDA and certain not-for-profit entities are potential tenants. However, WCIDA officials provided no confirmation that specific private commercial entities are committed to become tenants. The construction of offices for use solely or primarily by local or federal government agencies in the performance of governmental functions, and/or generally not-for-profit entities, does not fit within the definition of a project as prescribed by the GML and, therefore, does not further WCIDA’s purpose.

Without specific evaluation criteria for project applications and authorization for approved projects, as permitted by law, taxpayers do not have assurance that WCIDA benefits are awarded by applying factors consistent with the UTEP. Also, in the absence of proper documentation, there is no record of the Board’s rationale for its decisions, which can diminish transparency and accountability. As a result, WCIDA is at increased risk of approving projects that may not address the public interest.

Administrative Fees

IDAs should ensure that all fees charged to projects are properly calculated and billed. Approved projects are required to pay an administrative fee to WCIDA based on 1 percent of the project cost as estimated in their project application. The Director of Operations is responsible for invoicing the projects for the correct amount in a timely manner.

We reviewed the administrative fee invoices and payments for the 10 projects in our audit sample and found that administrative fees were not always billed properly or in a timely manner. Three projects with administrative fees totaling \$17,459 were undertaken by WCIDA in 2013 but not billed for administrative fees until January 2015, after

⁹ The “Lease” between the LLC and County is the subject of a separate audit report of County finances.

¹⁰ The legal authority for the County to acquire the building with the intent to sublease a substantial portion to private entities is not within the scope of this audit.

we requested the invoices for our audit fieldwork.¹¹ In addition, one other project was under-billed by \$1,460 and another project was overbilled by \$420.

If WCIDA does not accurately calculate administrative fee invoices or bill for these fees in a timely manner, the Board cannot be sure that the WCIDA is receiving all administrative fees to which it is entitled.

Monitoring

A significant responsibility of the Board is to monitor and evaluate the performance and compliance of businesses receiving financial assistance to determine whether the businesses are meeting the goals included in their project applications. IDAs are also responsible for reporting annually to the Office of the State Comptroller and the New York State Authorities Budget Office on assistance provided to and jobs created or retained by each project. Without effective monitoring, an IDA will not be able to fulfill its annual reporting requirements or effectively identify and address business performance shortfalls, and the community may not receive the expected benefits from investments.

WCIDA officials did not adequately monitor their sponsored projects to ensure that they achieved, or made reasonable progress toward, targeted capital investment, employment projections or other goals stated in their applications. In addition, WCIDA officials do not verify the information the businesses annually report to WCIDA.¹²

Capital Investment – The amount of capital investment that a business intends to make is included in the project application. This amount will eventually influence the assessed value of the new building or major renovations, and directly affects the amount of taxes that the local taxing jurisdictions will receive after the facility is constructed or renovated. Therefore, it is important that WCIDA officials verify what businesses actually invest to ensure it is reasonable when compared to the amount on the application.

WCIDA officials do not adequately monitor the capital investments made by the businesses. We reviewed 15 project applications with capital investments totaling approximately \$450 million. Although the applications include the businesses' intended capital investment, WCIDA does not request, nor do the businesses submit, any supporting documentation through their annual reporting to WCIDA. The Director of Operations said she generally assumes that the capital investment amount indicated on the application is the actual amount invested, and will review mortgage documentation when available.

¹¹ The Director of Operations stated that she had neglected to prepare and send the invoices.

¹² WCIDA then submits this data to the New York State Authorities Budget Office.

However, this is not a sufficient verification of the actual capital investment made. For example, officials could require the businesses to include, in their annual reporting to WCIDA, the status of their progress toward achieving the desired assessment value of their capital investment. Without adequate project monitoring, WCIDA officials cannot be assured that projects are meeting their stated capital investment goals. If businesses do not invest their own capital funds to the extent indicated in their applications, the project's success may be at risk.

Job Performance – When businesses apply for benefits, they are required to provide the number of both current and projected jobs that will be created and retained, and the related salary information. Businesses are also required to annually report to WCIDA their full-time equivalent employee information. However, the annual confirmation letters WCIDA issues to approved businesses do not include all the necessary data requirements to properly evaluate job performance. The confirmation letters do not request salary and employee benefit information for the jobs created and also do not require the separate reporting of existing and new employees.

We reviewed the annual job reports for eight¹³ of the 10 projects in our sample and compared the job projections per the project applications to the actual jobs reported as of December 31, 2014. Overall, the projects did not meet their goals for retaining or creating jobs. The eight projects were projected to retain or create 228 jobs; however, only 170 jobs were reported as of the end of 2014, a shortfall of 58 jobs. Five businesses reported they did not achieve their projections by a total of 74 jobs and three businesses reported they exceeded their projections by a total of 16 jobs.

PILOTs – When an IDA grants a real property tax exemption for an approved project, it may recapture a portion of the real property tax in the form of PILOTs. The business pays these amounts for certain tax-exempt properties in lieu of real property taxes that would otherwise have been paid if the properties, or a portion thereof, were not tax-exempt. The local taxing jurisdictions are responsible for billing and collecting PILOTs from the projects. WCIDA reviews these PILOT bills and compares them to their own PILOT calculations to ensure accuracy before the taxing jurisdictions send them out. PILOTs for wind farm projects are paid directly to WCIDA, which then disburses the PILOTs to the local taxing jurisdictions.

¹³ Two projects were still in process during our audit (one project was still in construction and the other had not yet signed the agreement with WCIDA) and, therefore, had no job data to report as of the end of 2013 or 2014.

We reviewed the PILOTs for the seven projects in our audit sample that had PILOTs during 2013 and 2014¹⁴ and found that WCIDA is not properly monitoring PILOT bills and payments to ensure their accuracy. One school district overbilled two companies for PILOTs by a total of approximately \$3,000 during our audit period. For the two wind farm projects in our sample, WCIDA did not send PILOT bills to the businesses; the businesses calculated the annual increase in PILOTs and paid WCIDA directly. WCIDA officials could not provide documentation that they recalculated these increases and, as a result, cannot ensure that these businesses are paying the proper PILOT amount. We recalculated the PILOTs for the two wind projects in our sample based on their PILOT agreements and found no material discrepancies.

Recapture Clauses – The UTEP does not address or include a recapture-of-benefits clause. While the assistance agreements typically included a recapture clause for sales tax exemptions only, lease agreements and PILOT agreements typically did not include recapture clauses for any kind of benefit (such as real property and mortgage tax exemptions). WCIDA officials said there has never been a need to recapture benefits from projects.

By not adequately managing their projects or monitoring and verifying the data reported, the Board and WCIDA officials cannot determine whether the community is getting an appropriate return on its investment and whether the projects should continue to receive benefits.

Recommendations

The Board should:

1. Establish and adopt policies and procedures critical to project evaluation criteria on which to base project approval decisions, review and update the UTEP to reflect these criteria, and ensure all approved projects are permissible in accordance with statutory requirements.
2. Amend the UTEP to include a recapture-of-benefits clause for all types of benefits extended to businesses and ensure all projects include such provision in their agreements.
3. Review with WCIDA legal counsel whether the Center Street Business Center project is a permissible IDA project even though WCIDA has not confirmed that entities other than

¹⁴ Three projects did not pay PILOTs during our audit period. PILOTs for one project will begin in 2015, and for another in 2016. The third project has not yet signed a PILOT agreement.

governmental and not-for-profit entities will be tenants in the building. If WCIDA is advised that it is not a permissible project, determine what actions to take.

4. Develop procedures to ensure that businesses' annually reported data is evaluated to appropriately monitor performance and take appropriate action if their performance is less than anticipated or if required information is not received.

WCIDA officials should:

5. Ensure that invoices for administrative fees are properly calculated and billed in a timely manner.
6. Require project owners to annually provide information on capital investment, jobs and PILOTs, including supporting documentation and certifying signatures.
7. Follow up with businesses to obtain the data necessary for project monitoring in the event that sufficient information is not received.

APPENDIX A

WYOMING COUNTY IDA PROJECTS

Figure 1: Active WCIDA Projects During the Audit Period					
Project Name	Capital Investment ^a	Mortgage Tax Abatement ^b	Sales Tax Abatement ^c	2014 PILOTS ^d	Net Employment Change ^e
Arcade & Attica Railroad	\$1,100,000	\$0	\$168,000	\$0	1
Agri Fab & Repair	\$380,000	\$2,500	\$16,000	\$6,378	(14)
Blue Seal Feeds	\$2,800,000	\$12,500	\$285,200	\$110,381	N/A
Boxler Animal Adventure	\$1,500,000	\$0	\$120,000	\$7,600	12
Center Street Business Center	\$4,000,000	\$50,000	\$200,000	\$0	0
Drasgow, Inc.	\$1,021,295	\$10,579	\$76,000	\$4,472	23
E.G. & J.R. Miller	\$250,000	\$3,125	\$18,040	\$18,734	0
In-Site Enterprises	\$380,000	\$1,875	\$24,000	\$2,960	5
Sun Jelly WNY	\$4,500,000	\$51,250	\$300,000	\$12,505	3
Koike Aronson, Inc.	\$8,127,000	\$79,375	\$200,000	\$58,086	5
Krog Corp	\$1,500,000	\$12,500	\$120,000	\$3,043	10
LVM Materials	\$360,000	\$6,250	\$40,000	\$900	4
M&T Trucking	\$1,657,000	\$25,387	\$300,000	\$30,114	31
Maple Grove Enterprises	\$432,500	\$938	\$18,000	\$0	(9)
Maple Pro Inc.	\$325,000	\$0	\$13,162	\$0	0
Noble Bliss Wind Park	\$213,000,000	\$0	\$17,600,000	\$169,298	7
Noble Operations	\$428,700	\$0	\$40,000	\$1,091	0
Noble Wethersfield	\$225,950,884	\$0	\$18,076,071	\$221,413	8
Paddock Properties	\$262,000	\$3,281	\$10,000	\$0	7
Park Warner	\$1,800,000	\$7,500	\$128,000	\$20,865	N/A
Perry Holdings LLC	\$800,000	\$10,000	\$72,000	\$0	(2)
Perry NY LLC Rufus Smith	\$450,000	\$1,875	\$36,000	\$3,630	6
Perry NY LLC Howell Bldg	\$350,000	\$2,500	\$28,000	\$1,871	6
Pioneer Properties – Arcade	\$482,700	\$0	\$394,992	\$10,098	393
RevCrest, Inc.	\$211,413	\$0	\$13,200	\$0	19
Sheldon High Wind Farm	\$214,400,000	\$0	\$17,152,000	\$201,617	8
Shur-Gain USA	\$3,500,000	\$0	\$36,000	\$24,610	8
Snyder Corp	\$3,500,000	\$43,750	\$136,000	\$80,895	8
Steel & O'Brien	\$697,000	\$3,125	\$56,000	\$12,134	26
Stoney Creek Wind	\$175,187,000	\$0	\$14,014,960	\$0	6
Taylor-Pohlman Arcade	\$3,275,000	\$38,750	\$374,720	\$81,428	56
WNY Crop Management	\$350,000	\$3,125	\$2,240	\$5,567	24
Totals	\$872,977,492	\$370,185	\$70,068,585	\$1,089,690	636

^a Capital Investment is from RP-412-a forms (New York State application for real property tax exemption).
^b Mortgage exemptions are based on amounts approved in Board resolutions, total mortgage amounts listed on project applications, or amounts from project financing worksheets.
^c Sales tax abatement is the estimated value of sales and use tax exemption from the ST-60 9 (New York State appointment of project or agent) forms.
^d PILOTS made in 2014 were: Town – fiscal year 2014, County – fiscal year 2014, school district – fiscal year 2013-14, and Village – fiscal year 2014-15.
^e Based on job surveys at 2014 year end. This represents the difference between full-time employees reported on the application and on annual surveys. N/A indicates projects that did not submit job surveys for 2014 year end.

APPENDIX B
RESPONSE FROM AGENCY OFFICIALS

The Agency officials' response to this audit can be found on the following pages.



July 16, 2015

Mr. Jeffrey D. Mazula
Chief Examiner
Office of the State Comptroller
Division of Local Government and School Accountability
295 Main Street, Suite 1032
Buffalo, New York 14203-2510

Dear Mr. Mazula:

This letter will serve as our formal response to your draft audit report titled Wyoming County Industrial Development Agency Project Management Report of Examination for the Period of January 1, 2013 – February 17, 2015 (the “Draft Audit Report”).

The Draft Audit Report has been reviewed by the staff and Board of Directors of the Wyoming County Industrial Development Agency (“WCIDA”) and representatives of WCIDA participated in the exit conference portion of the audit process with staff of the Comptroller’s office.

The focus of the Draft Audit Report is a review of WCIDA’s policies and procedures for evaluating, approving and monitoring projects. In that regard, we appreciate this opportunity to provide clarification on some of the issues raised in the Draft Audit Report as follows:

1. Project Review and Approval.

(a) The Draft Audit Report references various criteria contained in WCIDA’s Uniform Tax Exemption Policy (“UTEP”) which are used to evaluate projects, including the criterion that “[t]otal project costs should generally exceed \$500,000 to justify the use of IDA tax incentives.” The \$500,000 threshold is a guideline typically used by industrial development agencies to identify projects for which the benefits to be received (based on the project costs) would generally exceed the transaction costs involved in closing and documenting the projects and for which pursuing incentives would make economic sense from a company’s standpoint. While the statement in the Draft Audit Report that certain projects did not meet this threshold is factually accurate, it should be noted that the UTEP did not prohibit WCIDA from assisting these projects and in each instance the applicant made the business judgment to seek assistance from WCIDA.

WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY

6470 Route 20A · Suite 4 · Perry, New York 14530 · Phone: (585)237-5080 or (585)237-4110 · email: jpierce@wycobusiness.org
www.wycoida.org

(b) WCIDA disagrees with the suggestion stated in the Draft Audit Report that the project which involved the conversion by a commercial developer of a 28,000 square foot vacant mill into an office building did not fit within the definition of a “project” under the General Municipal Law (GML) and, therefore, did not further WCIDA’s purposes. The project is a “commercial” undertaking and constitutes an eligible project under the GML. As noted in the Draft Audit Report, commercial facilities are facilities used for profit-making activities and can include an office building. In this instance, the project is owned and operated by a private, for-profit developer. It is being financed with conventional mortgage financing, obtained by the developer, guaranteed by the individual developer and affiliated companies and secured by mortgages on the project site and property owned by affiliated companies of the developer. The developer has undertaken financial risk which is typical of a commercial real estate venture. Although Wyoming County will be a tenant in the building under a standard commercial lease and may ultimately acquire the facility under a separate arrangement with the developer, the developer has also entered into a lease with the United States Department of Agriculture. In addition, it is anticipated that some of the space leased to the County will be subleased, with appropriate rental payments, to such non-governmental entities as Cornell Cooperative Extension, the Cornell College of Agriculture and Life Sciences and its milk testing service, and the Cornell School of Veterinary Medicine, which provide support for dairy and agricultural businesses which are critical to the County’s economy, and the Wyoming County Chamber of Commerce, the Wyoming County Business Education Council and WCIDA, which provide support to businesses across the County. The project will be operated by a for-profit developer as a multi-tenant facility and the developer/landlord has the risk, typical of a commercial venture, that a tenant will default or vacate the premises and has the ability to relet the premises if a tenant leaves or is evicted. In addition, the project involves significant investment by a private developer in the renovation and repurposing of an industrial structure located in the business district of the Village of Warsaw which had been largely vacant and underutilized for a number of years. The renovation and conversion of the building will help revitalize the business district by combating deterioration and blight, clearly in furtherance of WCIDA’s purposes.

See
Note 1
Page 16

2. Administrative Fees. With respect to the billing and collection of administrative fees, WCIDA staff has never failed to bill for its administrative fees and routinely monitors its billings as part of its internal audit process, which in this instance coincided with the Comptroller’s audit. Any discrepancies identified in the calculation of fees have been corrected.

3. Monitoring – Job Performance. WCIDA believes that the analysis of the job performance of its Projects contained in the Draft Audit Report is misleading. A business may achieve its job creation total but subsequently reduce employment due to seasonal changes or disruptions in the economy or business cycle. Through the assistance of WCIDA these companies were encouraged to locate or expand within Wyoming County and they continue to contribute to the local economy.

4. PILOT Payments. The Draft Audit Report states that, for two wind farm projects, WCIDA did not send PILOT bills to the companies and did not recalculate annual increases in PILOT payments due. Due to the unique nature of the payment in lieu of tax formula for the



Mr. Jeffrey D. Mazula

July _____, 2015

Page 3

wind farm projects, which are based on installed nameplate generating capacity, the initial calculation of the payment amount is made by the Project operator but WCIDA does, in fact, verify PILOT calculations on wind farm projects based on the formulas contained in the PILOT Agreements. To the extent these recalculations were not apparent, WCIDA staff will take steps to better document its verification of these payments. All PILOT payments due on the wind farm projects have been paid when due and as agreed and are remitted to the taxing jurisdictions. As noted in the Draft Audit Report, the payments made on the wind projects were verified by the Comptroller's Office and no material discrepancies were found.

We appreciate the time your staff spent in conducting the audit of WCIDA and your recommendations on how WCIDA can enhance its evaluation of projects and its monitoring of employment and capital investments. We will submit a Corrective Action Plan to address your recommendations, as appropriate.

Thank you again for this opportunity to respond to the Draft Audit Report.

Very truly yours,

WYOMING COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

Mark Dadd, Chairman

APPENDIX C

OSC COMMENT ON THE AGENCY'S RESPONSE

Note 1

We are aware that the developer financed the project by a “conventional mortgage,” that it will be operated as a multi-tenant facility and that the developer will undertake certain financial risks. In our view, however, under the facts presented, those factors do not ensure that the project constitutes a “commercial” project for IDA purposes. WCIDA still has not identified any expected private commercial tenants for the project. Instead, it acknowledges that the County will be a tenant and may ultimately acquire the facility, that the United States Department of Agriculture (another government agency) has entered into a lease and that the County may sublease to other not-for-profit or governmental entities, such as a cooperative extension, a chamber of commerce, colleges and the IDA itself. While some of these potential tenants may perform services that may support private businesses and the general economy of the County, that does not alter the essential nature of the project, which, from its inception, has been to construct a facility to house government agencies and not-for profit entities, rather than for-profit commercial entities

APPENDIX D

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review the approving and monitoring of projects sponsored by WCIDA that were active for the year ending December 31, 2014. For selected projects we extended our audit period back to 2006, the year of inception/sponsorship. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed WCIDA officials to gain an understanding of the project approval, monitoring and administrative fee billing and collection procedures.
- We reviewed WCIDA policies and procedures to determine written criteria and steps in place regarding project approval, monitoring and collection processes.
- We selected a judgmental sample of 10 projects from WCIDA's 32 active projects, based on project type and cost, so as to have a representative sample of diverse industries and cost levels.
- We reviewed Board minutes and resolutions to determine the approval of project applications, the monitoring of projects and the amount of approved incentives for certain projects.
- We reviewed project files to determine that applications were complete, appropriate supporting documentation was submitted with the applications, and documentation associated with the Board's review process was available.
- We reviewed annual confirmations and documentation from the businesses to support the data provided to WCIDA. We then compared that data to the annual report on the status of projects WCIDA certifies with the New York State Authorities Budget Office to verify that the reporting is accurate.
- We reviewed the annual job numbers reported by the businesses and compared them to the original estimates on the project applications to determine whether the businesses have met their job creation/retention goals.
- We reviewed PILOT agreements and recalculated the PILOT amounts billed to ensure that bills were accurate, and compared them to the amounts actually paid to ensure the payments were accurate and timely.
- We reviewed sales tax exemption reports the businesses provided to WCIDA and compared to the sales tax exemptions as approved in Board resolutions. Additionally, we reviewed the New York State Department of Taxation and Finance ST-60 forms to determine that the reported exemptions were authorized.
- We reviewed the WCIDA administrative fee calculations and invoices for the projects in our sample and compared them to the amounts paid.

We conducted this performance audit in accordance with 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.

APPENDIX E

HOW TO OBTAIN ADDITIONAL COPIES OF THE REPORT

To obtain copies of this report, write or visit our web page:

Office of the State Comptroller
Public Information Office
110 State Street, 15th Floor
Albany, New York 12236
(518) 474-4015
<http://www.osc.state.ny.us/localgov/>

APPENDIX F
OFFICE OF THE STATE COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY

Andrew A. SanFilippo, Executive Deputy Comptroller
Gabriel F. Deyo, Deputy Comptroller

LOCAL REGIONAL OFFICE LISTING

BINGHAMTON REGIONAL OFFICE

H. Todd Eames, Chief Examiner
Office of the State Comptroller
State Office Building, Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313
Email: Muni-Binghamton@osc.state.ny.us

Serving: Broome, Chenango, Cortland, Delaware,
Osego, Schoharie, Sullivan, Tioga, Tompkins Counties

BUFFALO REGIONAL OFFICE

Jeffrey D. Mazula, Chief Examiner
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510
(716) 847-3647 Fax (716) 847-3643
Email: Muni-Bufferalo@osc.state.ny.us

Serving: Allegany, Cattaraugus, Chautauqua, Erie,
Genesee, Niagara, Orleans, Wyoming Counties

GLENS FALLS REGIONAL OFFICE

Jeffrey P. Leonard, Chief Examiner
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396
(518) 793-0057 Fax (518) 793-5797
Email: Muni-GlensFalls@osc.state.ny.us

Serving: Albany, Clinton, Essex, Franklin,
Fulton, Hamilton, Montgomery, Rensselaer,
Saratoga, Schenectady, Warren, Washington Counties

HAUPPAUGE REGIONAL OFFICE

Ira McCracken, Chief Examiner
Office of the State Comptroller
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533
(631) 952-6534 Fax (631) 952-6530
Email: Muni-Hauppauge@osc.state.ny.us

Serving: Nassau and Suffolk Counties

NEWBURGH REGIONAL OFFICE

Tenneh Blamah, Chief Examiner
Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, New York 12553-4725
(845) 567-0858 Fax (845) 567-0080
Email: Muni-Newburgh@osc.state.ny.us

Serving: Columbia, Dutchess, Greene, Orange,
Putnam, Rockland, Ulster, Westchester Counties

ROCHESTER REGIONAL OFFICE

Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
The Powers Building
16 West Main Street, Suite 522
Rochester, New York 14614-1608
(585) 454-2460 Fax (585) 454-3545
Email: Muni-Rochester@osc.state.ny.us

Serving: Cayuga, Chemung, Livingston, Monroe,
Ontario, Schuyler, Seneca, Steuben, Wayne, Yates Counties

SYRACUSE REGIONAL OFFICE

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428
(315) 428-4192 Fax (315) 426-2119
Email: Muni-Syracuse@osc.state.ny.us

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

STATEWIDE AUDITS

Ann C. Singer, Chief Examiner
State Office Building, Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313