



Hamburg Industrial Development Agency

Project Approval and Monitoring

Report of Examination

Period Covered:

January 1, 2013 — December 23, 2014

2015M-32



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

June 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 local government assets.

Following is a report of our audit of the Hamburg Industrial Development Agency, entitled Project Approval and Monitoring. 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

An Industrial Development Agency (IDA) is an independent public benefit corporation 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 economic welfare of the people of the State. The powers and duties of IDAs are set forth primarily in Article 18-A of General Municipal Law (GML). Typically, projects that receive IDA benefits involve the acquisition, construction or major renovation of buildings or other structures and generate short- and long-term employment in construction and operations-related jobs.

The Hamburg Industrial Development Agency (HIDA) is governed by a board which comprises nine members who are appointed by the Town of Hamburg (Town) Board. According to its mission statement, the goals of HIDA are to advance job opportunities and economic welfare in the Town by providing financing and tax incentives as authorized by New York State Law. The HIDA Board (Board) is responsible for the general management and control of HIDA's financial and operational affairs. The Executive Director and the Chief Financial Officer manage HIDA's day-to-day operations. HIDA funds its operations primarily with fees charged for processing applications and for administering benefits.

HIDA generally assumes the title of the real and/or personal property owned by the businesses that are involved in approved projects, thereby allowing HIDA to offer benefits to these businesses (i.e., sales and use tax exemptions, mortgage recording tax exemptions and real property tax abatements). HIDA 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 payment in lieu of taxes (PILOT)¹ agreements. HIDA reported 48 active projects with PILOT agreements in 2014.

Objective

The objective of our audit was to review HIDA's process for evaluating, approving and monitoring projects and addressed the following related question:

- Did the Board properly evaluate and award projects, subsequently monitor the performance of the businesses that

¹ 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.

received financial benefits and take action to address those projects whose performance was less than expected?

**Scope and
Methodology**

We examined HIDA's records and project files for the period January 1, 2013 through December 23, 2014. We also analyzed related documents for projects initially sponsored as early as 2000 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 C of this report.

**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. Agency officials generally agreed with our recommendations and indicated that they plan to take corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the 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 Secretary's office.

Project Approval and Monitoring

GML provides that certain types of projects are eligible for IDA economic assistance to promote, develop and assist industrial, manufacturing, warehousing, commercial, research and recreation facilities. Because tax benefits granted by IDAs result in a cost to the community, it is important for IDAs to consider a project's eligibility and develop project evaluation criteria, which should be consistently applied when making project selection decisions for the same type of projects. In addition, the Board is responsible for monitoring approved projects to ensure that businesses are receiving only the benefits and incentives that have been granted by the IDA. The Board is also responsible for monitoring and evaluating the performance of approved projects and determining whether they are meeting the goals established in their project applications.

Although HIDA officials developed a Uniform Tax Exemption Policy (UTEP) for project selection, the method of determining the benefits to be provided is not well-defined or required to be documented. Therefore, it is possible that not all project applications of the same type were evaluated using the same objective criteria. The Board did not design and implement an adequate system to monitor HIDA approved projects and did not develop an adequate recapture policy to allow for the recovery of previously granted benefits if job creation and economic goals or other terms of the agreements are not met.

Further, HIDA does not verify the amounts provided by businesses when applying for financial assistance or verify the annual reported data that could be used to evaluate project performance. For example, HIDA officials did not have a system in place to track the amounts directly billed and collected by taxing jurisdictions for PILOTs. As a result, we found that 21 businesses were overbilled PILOTs by a total of \$17,870 and 25 were underbilled PILOTs by a total of \$38,850. Also, HIDA officials did not establish a process for monitoring and tracking sales and use tax exemptions.

Project Review and Approval

IDAs are required by GML to establish a UTEP which provides the Board with detailed procedural guidelines to make project approval or denial decisions. The UTEP should include specific criteria for evaluating each type of project application.

The Board has a UTEP which includes criteria that the Board and HIDA officials should consider in determining if a project is eligible for assistance. However, the UTEP was written by the six IDAs²

² Representatives from six different IDAs review and update the UTEP that is used by the six IDAs.

that use it and, therefore, is not specific to the needs of any one community. According to HIDA officials, when HIDA receives a project's application, the Executive Director reviews it to verify that it is complete, then HIDA's legal counsel determines if the project is eligible for assistance. When deemed eligible, the Board uses the general criteria provided in the UTEP for the review and approval or denial. The Board approves the project's application by adopting a final resolution.

HIDA's UTEP also contains eight criteria that are used to analyze a project in determining what PILOT schedule³ should be used. These criteria are titled employment, out-of-region sales, in-region purchases, capital investment, cluster/regionally strategic industry, framework for regional growth compliance, brownfield site and other.⁴ The PILOT schedule is selected depending on the range the project criteria falls into, defined as either low, middle or high. We found that the method of determining the range is not well defined in the policy. For example, the employment criteria used when selecting the PILOT schedule for a project did not specify how many jobs created or retained are required to be approved for each range.

For the audit period there were 49 open projects that were receiving assistance from HIDA. We examined the applications for 21 of these projects with capital investments of approximately \$31 million (see Appendix A). Although we found that all applications were complete and approved by the Board, there was no documentation stating the reason for their approval. In addition, there was no supporting documentation for the PILOT criteria range selected for each of the projects. Therefore, we could not determine if the correct PILOT schedules were selected for the projects.

Without specific written evaluation criteria by type of project, taxpayers do not have assurance that HIDA benefits are awarded through a consistent process. Also, the Board is not held properly accountable for its decisions.

Monitoring

A significant IDA Board responsibility is to monitor and evaluate the performance and compliance of businesses receiving financial assistance to determine whether they are meeting their project goals. Without effective monitoring, the Board will not be in a position to effectively identify and address business performance shortfalls and the community may not receive the expected benefits from investments. When business performance is less than expected,

³ The UTEP includes seven and 10-year PILOT schedules as well as a 10-year Enhanced Jobs Plus PILOT schedule.

⁴ This includes projects that are locally owned, utilize green technologies and have substantial professional development/lifetime learning programs.

recapture policy and agreement provisions can be applied to address the shortfalls.

The Board did not adequately monitor and evaluate the performance of businesses receiving assistance from HIDA. The UTEP addresses but does not require the inclusion of a recapture of benefit clause, and HIDA did not develop a comprehensive recapture policy for this. HIDA did adopt a recapture clause as part of its policy manual. However, it specifically excludes the recapture of benefits for projects that are unable to achieve their job creation goals.

PILOTs – When an IDA grants a real property tax exemption for an approved project, it may gain a portion of the real property tax in the form of PILOTs. The business pays these amounts in lieu of real property taxes that would otherwise have been paid if the property, or a portion thereof, was not tax-exempt. It is crucial for HIDA to have a process in place to track the required PILOTs and corresponding payments made from businesses to the affected taxing jurisdictions to ensure that these benefits are being properly administered.

HIDA did not have a system in place to validate the amounts billed and collected by taxing jurisdictions for PILOTs. Instead, HIDA relied solely on the taxing jurisdictions to properly bill and collect PILOTs. HIDA officials did not perform their own calculations of PILOT bills or review the taxing jurisdictions' PILOT calculations to ensure that they were accurate and in accordance with authorized agreements. As a result, HIDA officials did not adequately ensure that projects were paying the required PILOTs or that affected taxing jurisdictions were receiving the related revenue they were entitled to.

We reviewed the PILOT agreements for 20 of the 49 open projects⁵ and computed payments due for 2013⁶ totaling \$465,790 and 2014⁷ totaling \$507,697. We compared them with the actual payments made to the affected taxing jurisdictions to ensure that the PILOT billings were accurate and complied with the agreements. We found that 46 of the 172 total individual PILOT billings were inaccurately calculated, causing 21 businesses to be overbilled by \$17,870 and 25 to be underbilled by \$38,850.

Capital Investment – Capital investment by a business in buildings and machinery can be an indication of its long-term commitment

⁵ The PILOT agreement for one of the 21 projects we reviewed had expired and was not included in our testing.

⁶ 2013 PILOTs include those made for the 2013 town and county fiscal years and the 2013-14 school and village fiscal years.

⁷ 2014 PILOTs include those made for the 2014 town and county fiscal years and the 2014-15 school and village fiscal years.

to the local community. Additionally, if a business does not invest its own capital funds to the extent indicated in its application, the project's success may be at risk and lead to the business requesting additional benefits. Therefore, it is important that HIDA officials verify the amounts of capital that the businesses invest, to ensure that the actual investments agree with the amounts on the approved applications.

HIDA officials have an unwritten procedure in place to monitor businesses' capital investments. After project completion, HIDA-sponsored projects are required to submit a signed cost affidavit. HIDA officials compare the cost affidavits to the projects' applications to ensure they are reasonable. However, HIDA officials did not establish written policies or guidelines to define what a reasonable variance is and did not establish recapture of benefit provisions for those projects that have unreasonable variances.

We found that, of the 21 project files we reviewed, only nine contained cost affidavits. The Executive Director stated that missing affidavits must have been received because they would have been used to calculate the projects' administrative fees and that they may have been misplaced. We compared the nine project cost affidavits to the corresponding project applications and found that three of the nine projects had costs that were approximately \$964,000 (15 percent) less than their projected investment amount of \$6,414,000. Without written policies or guidelines to define unreasonable variances and no recapture of benefit provisions, the Board has not ensured that the community receives the expected investment benefits the businesses agreed to provide.

Job Performance—One of HIDA's goals is to advance job opportunities in the community. Therefore, when a business applies for benefits, it is required to report on its application the number of actual full-time equivalent (FTE) jobs prior to the start of the project, to estimate the number of FTE jobs that will be retained or created upon completion of the project and to report actual FTE jobs annually. As such, HIDA is responsible for establishing a process to monitor and evaluate agreed-upon job expectations, to ensure that the public is receiving the intended benefits and to help the Board evaluate whether it needs to address a project not meeting its goals. The process should include procedures to determine whether reporting requirements are met, employment data is reliable and projects demonstrate that they have met employment goals. When job performance is less than expected, recapture policy and agreement provisions can be applied.

HIDA did not have an effective process in place to monitor and evaluate agreed-upon job expectations. HIDA did not request

supporting documentation (i.e., payroll records) from businesses to verify both the stated number of existing jobs at the time of application and the annual submission of current employment data. As a result, job performance measures could be inaccurate. For example, if an applicant understates current employment numbers in the application and HIDA does not identify this error, the reported number of new jobs created in future years could be inflated.

We selected 21 projects to determine whether they met their employment goals for job creation and retention as of December 31, 2013. Three projects were missing job surveys, two projects indicated they were not able to project employment figures on their applications and one project was inactive and did not receive an employment survey. For the 15 available job surveys, we found that five of the projects were not meeting the employment goals agreed to in their applications. Specifically, these projects anticipated they would create and retain 101 FTE jobs but only reported 46.5 FTE employees as of December 31, 2013, resulting in a shortfall of 54.5 FTE jobs, or 54 percent of the projected FTE jobs. However, the other 10 projects in our sample met or exceeded their employment goals by 121 FTE jobs, or 38 percent more than the projection.

HIDA officials stated that they do not monitor job creation and retention because it is not required by law. HIDA officials stated that the lack of job creation by the projects may be due to the poor economy. They also indicated that an attempt to recapture or terminate benefits would worsen the financial situation of an already struggling business and could cause the business to fail. However, by not adequately monitoring ongoing projects or verifying reported employment data, there is an increased risk that projects will continue to receive benefits without fulfilling their employment commitments to the community.

Sales and Use Tax Exemptions – Purchases for IDA projects are eligible for exemptions from sales and use tax. HIDA uses information contained on project applications, in regard to construction and equipment costs, to determine the estimated amount of sales and use tax exemptions. Once this amount is determined, HIDA files a form ST-60 with the New York State Department of Taxation and Finance (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 the date of appointment and the date agent status ends, an estimated value of goods and services that will be exempt from sales and use tax and an 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 Department on form ST-340. As of June 1, 2014, project owners were also required to submit form ST-123, reporting exempt purchases made, to HIDA and include a provision for the recapture of benefits for inappropriate sales and use tax exemption in the resolution. It is crucial for HIDA to have a process in place to monitor sales and use tax exemptions to ensure that these benefits are being properly used.

HIDA did not adequately monitor the sales and use tax exemptions. HIDA officials did not obtain copies of the ST-340 forms filed by the project owners with the Department. HIDA officials also did not request detailed records from the project owners to support the amounts of sales and use tax exemptions claimed and to ensure that sales and use tax exemptions were only received on purchases that were authorized. Instead, the only documentation that HIDA requests from project owners is the annual amounts of sales and use tax exemptions that were used for the fiscal year. As a result, HIDA officials did not ensure that projects were only receiving sales and use tax exemptions that they were entitled to.

We found that HIDA officials received and maintained form ST-123 from the three approved projects that were granted sales and use tax exemptions after June 1, 2014. In addition, all three project resolutions had a provision for the recapture of inappropriate sales and use tax exemptions. However, HIDA did not implement a process to track and review sales and use tax exemptions by project. This increases the risk that sales and use tax exemptions obtained by other project owners may have exceeded authorizations for both the period of time and the types of purchases that were exempt.

Recommendations

The Board and HIDA officials should:

1. Review and update the UTEP to ensure that it includes clear guidance, documentation requirements and criteria specific to the needs of HIDA.
2. Develop a recapture policy that allows for the recapture of financial assistance if businesses fall short of their performance goals.
3. Monitor whether PILOTs are accurately billed and collected in accordance with authorized agreements.
4. Evaluate if the businesses' actual capital investments are consistent with those specified on the applications and

document action taken if their performance is less than intended or required information is not received.

5. Ensure that project files contain all necessary information, including capital investment cost affidavits and job surveys.
6. Verify that the employment data that businesses report annually is accurate, evaluate performance and document action taken if their performance is less than intended.
7. Request applicable documentation to monitor sales tax benefits received by each project to determine if the project was entitled to the exemption and enforce the recapture resolution for those benefits deemed unauthorized.

HIDA officials should:

8. Notify taxing jurisdictions and request that updated bills be sent to businesses when bills do not agree with the PILOT agreements.

APPENDIX A

HIDA PROJECTS AND EXEMPTIONS

Figure 1

Project Name	Capital Investment ^a	Mortgage Tax Abatement ^b	Sales Tax Abatement ^c	2013 PILOTs ^d	2013 Net Employment Change ^e
Benderson 85-1 Trust	\$2,400,000	\$0	\$210,000	\$20,862	N/A
Randall Benderson 1993-1 Trust	\$1,334,250	\$0	\$220,938	\$41,389	N/A
Bert's Bikes	\$1,856,566	\$15,525	\$162,450	N/A	(51)
BW's BBQ	\$400,000	\$0	\$21,875	\$6,840	1
Camp 100 LLC	\$4,929,000	\$43,500	\$481,250	\$69,032	15
Cheektowaga Concrete	\$3,191,146	\$30,000	\$787,500	\$70,611	40
CVR Holdings	\$130,000	\$1,300	\$43,750	\$10,734	(2.5)
DeMeo Family Holdings	\$620,000	\$5,220	\$70,000	\$6,951	(27)
Erie South Properties LLC	\$280,000	\$0	\$26,250	\$6,702	33
Fisher Rental	\$2,856,000	\$0	\$385,000	\$16,581	30
Grimsby, LLC	\$834,000	\$6,000	\$109,375	\$18,907	7
Grimsview Properties	\$800,000	\$8,999	\$113,750	\$40,949	5
Hamburg Cycle	\$191,000	\$3,850	\$14,000	\$9,905	1
Hamburg Studio Apartments	\$2,145,722	\$20,437	\$131,250	\$4,355	1
JGM Associates	\$386,117	\$5,850	\$30,625	\$47,913	7
Metalico	\$5,000,000	\$0	\$1,487,500	\$33,575	33
Native Development	\$865,000	\$6,000	\$131,250	\$4,266	24
One Buffalo St. Inc.	\$775,000	\$0	\$112,875	\$15,309	45
Papyz	\$531,379	\$5,500	\$46,375	\$11,195	0
R.Brunner 4236 Clark St.	\$1,553,000	\$1,200	\$105,000	\$21,412	(29)
RTM Pharm, LLC.	\$210,000	\$1,440	\$21,875	\$3,263	2
Total	\$31,288,180	\$154,821	\$4,712,888	\$460,751	134.5

^a Capital Investment is from cost affidavits, form RP-412a and administrative fees charged.

^b Mortgage exemptions are reported for each project's life.

^c Sales Tax Abatement is the estimated value of the sales and use tax exemption from form ST-60 with the exception of the "Bert's Bikes" project, which did not have the form and was calculated by multiplying the project cost by the sales and use tax rate of 8.75 percent.

^d 2013 PILOTs include those made for the 2013 town and county fiscal years and the 2013-14 school and village fiscal years.

^e Based on employment surveys at the end of 2013 with exception of "Bert's Bikes," which is based on the employment survey at the end of 2012. This amount represents the difference between FTEs reported on their application and the annual survey.

APPENDIX B

RESPONSE FROM AGENCY OFFICIALS

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

June 9, 2015

Jeffrey D. Mazula
Chief Examiner
Office of the State Comptroller
Buffalo Regional Office
295 Main Street; Suite 1032
Buffalo, New York 14203-2510

Dear Mr. Mazula,

The Hamburg Industrial Development Agency appreciates the opportunity to respond to the report entitled "Project Approval and Monitoring" prepared by the Office of the State Comptroller's Division of Local Government and School Accountability. Please accept this letter as the Hamburg Industrial Development Agency's formal response to the Draft Audit Report.

Although being a high performing Industrial Development Agency, the Board of Directors recognizes the value of audits, which provide an opportunity for an outside review of internal practices and procedures that can be enhanced and strengthened.

The Draft Audit Report has been reviewed by the staff and Board of Directors of the Hamburg Industrial Development Agency. We appreciate the opportunity to provide response and clarification of some of the findings raised in the Draft Audit Report as follows:

UTEP and Common Policy: The report suggests updating the UTEP with criteria specific to the needs of the Hamburg Industrial Development Agency. In late 2001 and early 2002, the five town Industrial Development Agencies in Erie County along with the Erie County Industrial Development Agency adopted a Countywide Industrial Development Agency Eligibility Policy to govern the provision of financial assistance by each Industrial Development Agency for proposed projects to be located within Erie County. To encourage further collaborative efforts among Industrial Development Agencies, to facilitate the uniform implementation of the Countywide Policy and to provide a forum to address other common concerns with regard to economic development in Erie County, a Leadership Council of the Industrial Development Agencies was established. The Council's mission is through the consensus of its members to consider and resolve any concerns raised by an Industrial Development Agency with regard to the interpretation of the Uniform Policy. It is the intention of the Hamburg Industrial Development Agency to bring to the Leadership Council's attention the concerns raised by the audit concerning the UTEP not being specific to the needs of any one community. It is hoped that through a collaborative effort this concern can be addressed.

Recapture Policy: The report suggests that the Hamburg Industrial Development Agency should develop a recapture policy that allows for the recapture of financial assistance if businesses fall short of their performance goals.

The Town of Hamburg Industrial Development Agency has been advised that a number of other Industrial Development Agencies have adopted policies that provide for recapture of benefits if a project applicant does not fulfill the job creation estimates contained in their application. The difficulty of having these provisions is that the economic situation is always uncertain because of changes in overall economic activity as well as changes in markets. Some businesses are successful, others fail and some are successful for a time and then fail. Because of the reality of this uncertainty and volatility, the same agencies that have recapture provisions also have provisions that allow them to take into account exigent circumstances that in fact negate them recapturing benefits already provided to their applicant and in fact seldom ever are the recapture provisions enforced.

The difficulty that these recapture provisions cause even if there are provisions that can be applied to negate them is that the very existence of the recapture provisions makes it very difficult for a lender to approve applicants for loans in connection with projects as the operating costs of a project applicant and the ability of the project applicant to pay for his financing costs could change dramatically if the applicant was required to repay benefits already received. When a project applicant is going through difficult economic times it is the worst time to try to expect that applicant to repay benefits already received. If a business, due to economic hard times, changes in markets or adverse events with respect to that particular project applicant, were to be forced to repay past benefits received, this could easily force that business to close and declare bankruptcy and basically end all employment on the project.

The Town of Hamburg Industrial Development Agency therefore has determined that it will have a policy that does not provide for recapture of benefits already provided to project applicants if the project applicant does not reach and maintain its employment projections. The Town of Hamburg Industrial Development Agency does however expect that project applicants will undertake to do what they say they will do in their application. It is the policy of the Town of Hamburg Industrial Development Agency to require that the applicant undertake the activities set forth in the application and keep the project occupied as an active project. In the event that the project becomes vacant and remains vacant for a considerable period of time or the occupant changes the use of the project without Agency approval, the project occupant will be deemed to have defaulted in his obligations to the Agency and the future benefits to the applicant may be terminated. These provisions are contained in the various documents executed and delivered between the Agency and the project applicant in connection with each closing.

PILOT Payments: The report suggests the Hamburg Industrial Development Agency should establish a procedure to monitor PILOT payments to ensure their accuracy and that the payments are calculated in accordance with authorized agreements. We agree that is important, and it is the Hamburg Industrial Development Agency's intention to calculate the PILOT payments for all its projects and provide this information to all taxing jurisdictions (town, county, school and villages) to assure the accuracy of the PILOT bills mailed to the project operator.

Capital Investments: The report also suggests that Hamburg Industrial Development Agency evaluate if businesses' actual capital investments are consistent with those specified on the applications as well as document action taken of their performance is less than intended or required information is not received. When applications are accepted, the costs captured in the application are estimated. As a result, we recommend the applicants to estimate high as unanticipated costs invariably occur. By estimating high, a second public hearing on the project will not be needed. At the conclusion of a project, a certified cost affidavit is requested detailing the project's cost. It is the Hamburg Industrial Development Agency's intention to require the certified cost affidavit be provided prior to a project closing.

Project File Information: It is the Hamburg Industrial Development Agency's intention to assure all necessary information including capital investment affidavits are included in the project files. Job surveys are conducted yearly as part of our PARIS reporting requirements and can be found on our website.

Employment Data Verification: The Hamburg Industrial Development Agency requires active projects to report their employment annually by sending each company a job survey. This survey requires the company to report the number of jobs at the end of the year. This number is compared to the number of jobs reported at the end of the previous year. The company is asked to explain the reason for any variance. It is the intention of the Hamburg Industrial Development Agency to require companies to send a copy of their state employment forms each December 31st. The job totals on the state form will be checked against the job survey numbers provided and discrepancies will be followed up by contacting the company for clarification.

Monitor Sales Tax Benefits: In addition to requiring companies that were approved for sales tax exemptions since June 2014 with providing the Agency with form ST-123, we will now be requesting all projects to provide the Agency with form ST-340. This form is required to be filed by any designated Agent/Project Operator of Industrial Development Agency authority on a calendar year basis. This form will be reviewed to determine if the project was entitled to the sales tax exemptions claimed. Appropriate recapture action will take place in accord with current Agency recapture policy.

Notify and Request Bills Sent: It is expected that by the Agency calculating the PILOT payments for each taxing jurisdiction and providing this information for the generation of PILOT bills that PILOT bills will agree with PILOT agreements. We currently receive either summaries of PILOT bills or actual PILOT bills themselves. When our calculations do not match the actual bill amounts, we will contact the appropriate jurisdiction to correct the error and insure an updated bill be sent to the business.

The Hamburg Industrial Development Agency is strongly committed to its mission and fiduciary responsibility. Its success and benefit to the community is the direct result of dedicated members that serve on its Board, and Hamburg Industrial Development Agency staff, all of whom consistently strive to improve Hamburg Industrial Development Agency's performance.

For any further information regarding Hamburg Industrial Development Agency's written response, please feel free to contact the office at (716) 648-4145.

Sincerely,

Michael J. Bartlett
Executive Director

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to review HIDA's process for evaluating, approving and monitoring projects for the period January 1, 2013 through December 23, 2014. For selected projects, we extended our audit period back to the date of their inception.

To accomplish our audit objective and obtain relevant audit evidence, our procedures included the following:

- We interviewed the Board and HIDA officials to understand and assess HIDA's processes and procedures.
- We reviewed HIDA's policies, including the UTEP, to identify written criteria outlining an applicant's eligibility for sponsorship and the benefits that are offered.
- We judgmentally selected 21 projects to obtain a sample of various sizes and types of projects for further review and testing. This testing included comparing amounts projected to be spent and amounts actually spent, comparing the reported actual job numbers by the businesses to projected jobs on the application and reviewing PILOT agreements and payments to ensure that they were accurate and complied with the agreements.
- We reviewed all three projects required to issue a sales and use tax exemption letter after June 1, 2014 to determine if the proper documents were submitted to HIDA and resolutions included a provision for recapture of inappropriate exemptions.

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 D

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