
**Authority Budget Office
Review Report
Town of Erwin Urban Renewal Agency
August 25, 2009**



The Authority Budget Office (ABO) is authorized by Section 27 of Chapter 766 of the Laws of 2005 (The Public Authorities Accountability Act) to review and analyze the operations, practices and reports of public authorities, and to assess compliance with various provisions of Public Authorities Law and other relevant State statutes. This includes rendering conclusions and opinions regarding the performance of public authorities and to assist these authorities improve management practices and the procedures by which their activities and financial practices are disclosed to the public.

The Authority Budget Office (ABO) is conducting a series of compliance reviews of public authorities that have not filed required reports with the State for 2007 and 2008. The Town of Erwin Urban Renewal Agency (URA) was chosen for this review because it has not filed its Budget, Annual, Audit, Procurement, or Investment Reports.

The purpose of this review was to determine why the URA is delinquent with its reports. We also reviewed its structure and operations to determine whether the URA acts in other ways to promote accountability and transparency in the absence of filing its reports.

Background of Agency

The Town of Erwin URA was created in 1975 pursuant to Article 15-B, Title 87 of General Municipal Law (GML). The URA Board is comprised of the Town Supervisor and the four members of the Town Board. As a public benefit corporation, the URA is a governmental agency separate and distinct from the town. We found, however, that the URA functions as the Town of Erwin's Community Development Department. It is staffed by an Executive Director and four other employees. The URA owns a single property that generates annual rental income of \$10,800. The URA also has assets totaling approximately \$170,000 in cash and investments as of June 30, 2009. The URA has no debt and does not routinely administer any URA grant or loan programs, however, it is currently administering a Small Cities grant received by the Town for worker re-training. The majority of the staff's time is spent performing duties for the Town, such as building inspection, code enforcement and administrative and clerical functions.

The URA pays the Town an annual rent of \$1,200 for office space and overhead costs, and the URA is reimbursed for the costs of services it provides to the Town. For the 2008 fiscal year, total costs of operating the URA were over \$225,000, of which over 90 percent were reimbursed by the Town.

Failure to Submit Reports

We met with the Town Manager and the Executive Director of the URA. Although the ABO had previously notified the URA's Executive Director that it was subject to the Public Authorities Accountability Act, continued to provide regular notice that the URA was required to file statutorily required reports, and notified the URA that its reports were delinquent, management claimed that the URA did not receive notice from the ABO that the URA was subject to PAAA requirements. These officials believed the URA had satisfied its reporting obligations by including the URA's financial information in the Town's annual report to the Office of the State Comptroller, and had not been told by the Office of the State Comptroller that this was no longer sufficient. Now that it is aware of the requirement to file this annual financial information through the Public Authorities Reporting Information System (PARIS), the URA has begun the process of enrolling staff in PARIS for the purpose of entering and reporting information.

Accountability and Transparency Actions

The URA spends little time performing URA related activities. Staff dedicate the majority of their time to performing governmental functions on behalf of the Town. As a result, the operations of the URA are indistinguishable from town government, with URA business generally addressed as part of regular Town Board meetings. In addition, the URA Board does not adopt its own budget. Its personal service costs are included in the budget for the Town, but are not separately identified as costs of the URA. In fact, the Town's web site identifies URA staff as employees of the Town. Moreover, while the URA has a different employment policy than the Town, this policy was not adopted by the URA Board, but rather is subject to Town Board approval. Taken together, these actions compromise the independence of the URA, minimize full disclosure of its activities to the public, and make it difficult to hold the URA accountable.

Of greater concern, however, is that the actions of the Town and URA appear to be inconsistent with a legal opinion issued in 1978 by the Office of the State Comptroller (78-294-A). This opinion held that employees of an urban renewal agency may not be utilized to perform work for municipal departments, even if those services are reimbursed by the municipality. Based on the ABO's understanding, this opinion would prohibit URA staff from performing building inspections, code enforcement and providing administrative support to the Town.

We recommend that this matter be referred to the Town Attorney for further review and advice. We also believe that the Town should re-evaluate the need for maintaining the URA as a separate entity, given its limited operations.

Town officials stated that the URA helped secure the Small Cities grant that led to the creation of over 500 jobs in the Town of Erwin and that the URA has an ongoing contractual obligation to the State and a contractual agreement with the company relating to this grant. They also indicate that, subsequent to our review, the URA has taken several actions to improve the transparency and accountability of its operations, such as holding an open, public meeting of the URA Board separate from the Town Board meeting, reviewing and updating the URA's by-laws, and adopting a code of ethics, investment policy, procurement policy, defense and indemnification policy, compensation, reimbursement and attendance policy, whistleblower policy and guidelines for disposition of real property. They state that the URA has also subsequently established an audit committee and a governance committee.

However, the ABO does not believe that the existence of the URA was integral to the receipt of the Small Cities grant. Based on information provided by the Division of Housing and Community Renewal, we found that the Small Cities grant was awarded to the Town of Erwin, not to the URA. As such, any contractual obligation under the grant is with the Town, not with the URA. Moreover, the Town could directly apply for any additional future grant funding. Given these circumstances and the actual duties performed by URA employees, we encourage the Town to re-evaluate whether the continuation of this arrangement is necessary or appropriate.