



Governance Review

Westchester County Industrial Development Agency

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Executive Summary

**Purpose and
Authority:**

The Authority Budget Office (ABO) is authorized by Section 27 of the Public Authorities Accountability Act (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. Our governance review of the Westchester County Industrial Development Agency was performed in October and November 2008 and conducted in accordance with our statutory authority and compliance review protocols which are based on generally accepted professional standards. The purpose of our review was to provide an objective determination of the extent of the Agency's statutory compliance.

**Background
Information:**

The Westchester County Industrial Development Agency (Agency) was created in 1977 as a public benefit corporation pursuant to Article 18A Title 2 of General Municipal Law. The Law authorized the Agency to promote, develop and assist in acquiring and developing facilities for economic development. The Agency is authorized to have up to seven board members appointed by the County Executive and confirmed by the County Legislature and is managed by an Executive Director. Primary sources of capital for programs and projects are service fees and other contractual fees. The Authority received over \$1.35 million in revenue for the year ended December 31, 2007, and had operating expenses of over \$860,000.

Results:

We found the Agency to be a well-operating public authority with an informed and involved Board and management team. Overall, the Agency has done an effective job of complying with the requirements of State laws. When necessary, the Agency has improved compliance by revising and adopting additional policies. The Agency can continue to improve accountability and transparency by formally recording committee meetings, ensuring all Board members attend the required State approved training and annually reviewing its policies and procedures to make sure they are current and comprehensive.

The Agency agreed with the recommendations of our review, and stated that in the coming year it will develop appropriate procedures for the Board's approval and incorporate those procedures into its operations. It will also review all previously-adopted policies and ensure that all policies which require annual review and approval are provided to the Board at the Agency's annual meeting. The Agency also indicated that information on its progress will be posted on its web site.

Introduction and Background of the Authority

The Westchester County Industrial Development Agency (Agency) was established in 1977 as a public benefit corporation pursuant to Section 893-A of General Municipal Law. The Agency is responsible for attracting economic development to Westchester County and encouraging the creation of employment opportunities that enhance the quality of life for County residents.

In general, Industrial Development Agencies (IDAs) offer financial incentives to attract, retain, and expand businesses within their jurisdiction. This financial assistance can include tax exempt financing, such as low interest Industrial Development Revenue Bonds, as well as real property tax abatements, and exemptions from mortgage recording taxes and sales and use taxes. In return, a portion of the real property tax abatement is often paid by the assisted business to impacted taxing jurisdictions in the form of payments in lieu of taxes (PILOTS).

The Agency's fiscal year begins on January 1, and as of December 31, 2007, the Agency reported \$8.2 million in assets, consisting primarily of unrestricted cash and investments. Revenue received by the Agency for 2007 was approximately \$1.35 million, over \$950,000 of which were administrative fees for its project assistance efforts, while operating expenses for the Agency were approximately \$861,000. The Agency owns one parcel of land, valued at \$1.1 million. As of 2007, the Agency had 101 active projects that were receiving \$26.4 million in financial assistance. Of those, 43 were financed with Industrial Development Revenue Bonds. The Agency had total conduit debt outstanding of \$496 million as of 2007. Twenty of the Agency's projects were required to make PILOTS in 2007, totaling \$18.4 million. The Agency initiated seven new projects in 2008, of which two have been approved by the Board.

The Agency has a seven-member Board of Directors, which is appointed by and serves at the pleasure of the Westchester County Executive. The Agency is a component unit of the County, with the Deputy Director of the Westchester County Office of Economic Development (WCOED) serving as the Agency's Executive Director with responsibility for the Agency's operations. The Agency has a second staff member, who is also an employee of WCOED and serves as the Assistant Secretary to the Board.

Pursuant to an agreement between the Agency and the County, Agency operations are further augmented through the utilization of the County's financial management, purchasing, office space and personnel services. The Agency's expenses for office space, management and staff salaries and benefits and other administrative services are paid by the County in the first instance. The Agency fully reimburses the County for all its office and administrative costs and provides partial reimbursement for the Agency's staff salaries and benefits (approximately 80 percent), since this staff is also employed by the WCOED. Additionally under the agreement, the WCOED provides the Agency with marketing expertise to

attract, retain, and expand businesses in the County and refers eligible businesses to Agency programs. Under the agreement, the Agency reimbursed the County approximately \$264,000 for these additional WCOED services in 2007. Although the Agency is provided services by the WCOED, the Agency Board operates independently of the County in the project approval process.

While the Agency is responsible for arranging project financing and assembling the package of financial assistance, the WCOED works closely with the Agency and other local, county, state and federal agencies to provide small business, workforce training, and transportation assistance, and to attract minority and women owned businesses. Although separate organizations, the Agency is integrated with WCOED, as WCOED markets the Agency's ability to offer financial benefits to businesses interested in staying, expanding or relocating to the County. Since WCOED staff operate the Agency, they are subject to the oversight of the Agency's Board which has the responsibility of reviewing and approving all projects being proposed for financial assistance.

In addition to the Agency, there are six other IDAs located within Westchester County. However, the Agency does not duplicate, override, or supersede the efforts undertaken by the local IDAs established in Mount Vernon, Mount Pleasant, Yonkers, Peekskill, New Rochelle, and Port Chester. Instead, the Agency and WCOED focus on economic development in the areas of the county not served by these municipal IDAs. The Agency and WCOED will assist these IDAs as necessary and as requested, but otherwise there are few joint ventures and only limited interaction with these municipal IDAs. When it is mutually beneficial, the resources of the County and the local IDAs are pooled together to promote economic growth and job creation.

Compliance Review Objectives

The Authority Budget Office (ABO) is authorized by Section 27 of the Public Authorities Accountability Act (Act) to conduct reviews and analyses of the operations, practices, and reports of public authorities to assess compliance with provisions of the Act, Public Authorities Law, and other statutes. Our governance review was conducted to provide an objective determination of the Agency's compliance with applicable provisions of the Act, Public Authorities Law and General Municipal Law.

Compliance Review Scope and Methodology

Our compliance review was conducted in October and November of 2008, and covered selected Agency operations for the period January 2007 through December 2008. Our review focused on the effectiveness of the governing Board and Agency management. Specifically, we reviewed:

- Board duties and committee involvement
- Board member participation in State-approved training
- Policies and procedures required under the Act, Public Authorities Law, General Municipal Law and Public Officers Law
- Policies and procedures indicative of good governance practices
- Procurement, contracting, cash and investments, and asset management practices
- Independent financial audits and other reporting
- Adherence with reporting requirements
- Project review and approval processes

In addition to reviewing financial and organizational documents and records, we interviewed management staff, board members and counsel; attended a Board meeting; met with County officials, and performed other testing we considered necessary to achieve our objectives. Our report contains recommendations to ensure the Agency's compliance with the Public Authorities Law, General Municipal Law and other applicable laws. In addition, we have included recommendations for improving corporate governance practices. The results and recommendations of our compliance review were discussed with Agency management and their comments have been considered and are reflected in this report where appropriate.

Compliance Review Results

Governance and Oversight

Board Duties

Section 2824 of Public Authorities Law stipulates that public authority board members should execute direct oversight of senior management in the administration of the authority and understand, review, and monitor the implementation of fundamental financial and management controls and operational decisions of the authority. Good governance principles also dictate that public authority board members act in good faith and in the authority's best interest, and perform their oversight function consistent with the mission of the public authority and the public interest. In addition, authorities should conduct business in an environment that fosters transparency and enhanced public disclosure, focuses on accountability, and supports external oversight.

The Board generally meets on a monthly basis and appears to provide adequate oversight of Agency management and operations consistent with the Agency's mission, and the Board's statutory obligations. One week prior to meetings, Agency management provides necessary meeting materials to the Board to assist it in making informed decisions. These include summaries of project applications, minutes of public hearings, and drafts of proposed project agreements. The Board is also annually provided with employment data on each approved Agency project to determine if those projects are meeting agreed upon employment goals. We found the Board reviews and approves the Agency's annual budget and financial audit and discuss topics in relation to potential and approved projects. We found, however, that the Board conducts limited reviews of the Agency's policies and procedures, particularly its investment policies and procurement guidelines. Both management and the Board agreed that current policies need to be revised and updated. The Board has directed staff to start this process and to present revised policies to the Board for its approval.

Good governance practices suggest that public authority board member duties and responsibilities should be clearly defined, so that board members understand their roles and are better able to effectively perform their governance responsibilities consistent with the mission of the public authority. The Agency has established by-laws that appropriately govern the duties and actions of the Board, as well as the responsibilities of the Agency's Executive Director and the Assistant Secretary to the Board. The by-laws were recently updated to incorporate specific requirements of the Act, such as the need to maintain separation between executive management and Board positions, requirements for Board member independence, Board member training, and the disclosure of potential conflicts of interest.

Good governance practices suggest that public authority board members adopt a uniform application for the purpose of receiving, reviewing and approving requests for financial assistance from companies. The Agency has developed an adequate two-step application process for businesses to follow when seeking financial assistance from the Agency. First, the applicant submits an initial project worksheet which describes the project, its location, the estimated costs and the anticipated impact on employment and payrolls. If the project appears viable and beneficial to the County, the Agency, WCOED, and at times representatives from the New York State Empire State Development Corporation (ESDC), meet with the applicant to discuss the business assistance available and the range of benefits that could be provided. Following these discussions, the applicant officially submits a formal project application. The standard application explains the terms, conditions and fees of the project agreement. It is also used to determine if granting financial assistance will substantially increase workforce levels and capital investment in the County; the estimated costs of acquiring, constructing or expanding facilities, if applicable; the specific financial assistance being requested; and the projected number of jobs to be created and retained as a result of the project.

The application requires the applicant to assert that it has no conflicts of interests with the Agency and that the applicant is not abandoning or moving its operations or facility from another area of the State. The Agency also requests that the project applicant provide its two most recent annual reports, an environmental review report, a description of the economic impact of construction if the project involves any labor and union agreements, and anticipated training requirements for the applicant's incumbent workforce and any new employees. Agency management ensures that the applications are complete and that all necessary documents are provided. Only when Agency management, in coordination with WCOED, has determined the viability of a project does management bring that project to the Board for preliminary approval.

When a project is brought to the Board for approval, a summary of the project application, that includes all major aspects of the project, is provided to Board members in their meeting packets. The complete application is available to the Board upon request. Representatives of the applicant are present during the Board meeting when a project is under consideration to answer any questions raised by the Board. Unless otherwise indicated, a preliminary inducement resolution is then made by the Board to move forward with project execution, allowing the project to begin receiving financial assistance.

Good governance practices indicate that agencies should develop evaluation criteria to enable the Board to use standard objective criteria to approve projects. We found the Board has not adopted a formal evaluation and approval process, but does apply a consistent set of informal evaluation criteria. As indicated, Board members are provided with a high-level summary of the

project terms and have access to all project agreement documents. Board members analyze the requests for assistance and take into consideration several factors to ensure that the project is advantageous to the County. These factors include the impact and advantages the project will have on the County; the cost and size of the project; the number and types of jobs that the project will be creating; the range of products or services offered by an applicant and the project's impact on existing infrastructure in the County, such as the demand on public water, sewer, or transportation systems. In addition to the applicant's employment projections, Board members assess its financial standing and consider factors such as the overall impact of the project on local communities. Board members also strive to ensure that the projects are promoting a diverse workforce, support unions and employ women and minorities. To ensure that these factors are applied to all applications, the Board should formally document and approve these criteria as part of the official review and approval process.

In addition, management conducts an informal cost-benefit analysis to gauge the project's cost to the County, particularly for straight-lease projects. Management utilizes the information submitted by the applicant in the project application to compare the financial assistance requested to the proposed increased workforce, as well as payroll and private investments projected over the life of the project. The cost to the County is calculated by dividing the total value of the exemptions requested by the total number of jobs to be created. Although the Agency conducts a comprehensive analysis of projects, Agency management indicated that it is looking to develop a more sophisticated cost-benefit analysis model that it could apply beginning in the 2009 fiscal year to better assist in evaluating projects.

Good governance practices require agencies to enter into formal legal agreements to ensure that all parties adequately understand the conditions, and these agreements should be monitored by agencies to ensure agreed upon project performance. The project agreement is an essential document which establishes a set of conditions to be met by the project applicant and the Agency. The Agency has developed a well-structured project agreement that establishes a base employment number the applicant must maintain to continue to receive Agency benefits. The agreement also requires the applicant to report employment information to the Agency annually and requires the applicant to have this information notarized. We found the Agency appears to monitor the performance of its projects effectively, including the project's compliance with the established base employment number. Further, the Agency has incorporated provisions into its agreements that allow the Agency to recoup benefits already realized by the applicant if employment levels drop below the base employment number. Agency staff annually review the total number of employees and the total value of all tax exemptions received for each project, to determine if terms are being met. If a project is close to or below the base employment numbers, the Agency will work with the applicant to provide the resources that might accelerate job creation, or it may begin discussions to

recapture benefits or to amend or terminate the project agreement. The Agency may also request that the project suspend accepting Agency benefits if it anticipates not reaching the required employment numbers, so as to reduce the amount to be recaptured if jobs are not increased or retained. This information is provided in summary to the Board for annual review. Although the Agency follows these procedures for monitoring projects and recapturing benefits, these procedures have not been formally documented and adopted by the Board.

The Agency also monitors projects that no longer receive financial assistance to ensure that employment goals continue to be met after the company stops receiving benefits. This requirement for additional employment data after project completion is incorporated into the terms of the project agreement. Depending on the size of the project, the additional monitoring could last from two to ten years. During this period, the Agency will continue to receive and review a company's employment information to determine if the company is still meeting employment goals.

We reviewed a project in which the levels of employment dropped consecutively for three years, necessitating action by the Agency to recapture benefits. The Agency notified the project applicant that it was not meeting agreed upon job creation goals, and met with the applicant to discuss the project's employment situation. The Agency requested that the company suspend accepting benefits until it was able to maintain its base employment number. However, the company was unable to achieve its base employment number and the project was terminated. The Agency recaptured approximately \$280,000.

Policies of the Board

Section 2824(1) of Public Authorities Law requires Board members to establish policies regarding the salary and compensation of senior management, adopt a code of ethics, establish a whistleblower protection policy, and adopt a defense and indemnification policy. We found that the Board has adopted a code of ethics, a whistleblower policy, and has incorporated policies for defense and indemnification and the prohibition of credit to the Board in its by-laws. The Agency has also adopted certain policies of Westchester County, such as time and attendance and salary and compensation; however, the Board has not formally approved these policies. This was brought to the attention of Agency management, and the Board revised and adopted these policies at the December 2008 Board meeting.

Public Meetings

Sections 100 and 103 of Public Officers Law state that it is essential for public business to be performed in an open and public manner, that citizens are fully informed, and that every meeting of a public body should be open to the general public, except that of executive session. During the

scope of our review, a total of 18 Board meetings were held. We found the Agency appropriately advertises the dates and locations of these meetings and provides for public attendance. The Agency also posts to its website the date, time and location for all Board meetings, the minutes of those meetings, and the date, time and location of Board committee meetings.

Section 105 of Public Officers Law limits the purposes for which a public body may conduct an executive session. Such purposes include discussions regarding proposed, pending, or current litigation; the medical, employment, or financial history of a particular person or corporation; or the proposed acquisition, sale, or lease of real property when publicity would substantially affect the value of such property. The Board adjourned to executive session at 15 of the 18 board meetings it held. Based on our review of the Agency's board minutes for 2007 and 2008, it does not appear the Agency provided adequate justification for adjourning to executive session. For example, minutes of the February 2007 and July 2008 board meetings state the Board adjourned to executive session to discuss proposed property dispositions, but no further justification was documented in the minutes. We discussed this issue with Agency management and it appears that these executive sessions were proper, in that ongoing litigation regarding the Agency's property was being discussed. However, the Agency should document its board minutes fully and accurately as to the reasons for adjourning to executive session, consistent with the opinions issued by the Committee on Open Government, and to explain in open session why an executive session is necessary. This improved documentation should indicate the specific issue to be discussed and how this action conforms to the exemption criteria defined in Public Officers Law. Agency management stated that it is now documenting the grounds for adjourning to executive session and is reviewing resources available from the Committee on Open Government to provide an informational presentation to the Board on Open Meetings Law in the near future.

Section 102(2) of Public Officers Law requires public bodies to formally document and record meeting minutes. Further, the Committee on Open Government has interpreted that committees are public bodies and therefore subject to Open Meetings Law. We found that the Audit and Governance committees of the Board are not formally documenting and recording meeting minutes. Management stated that notifications for these meetings are posted; however, they were unaware that minutes needed to be formally recorded. They indicated that going forward the meetings of the committees will be formally recorded and documented for public review.

Committees

Section 2824(4) of Public Authorities Law requires authorities to establish an audit committee and a governance committee. The audit committee is responsible for recommending a certified independent accounting firm, the terms

of the engagement, the independent auditor's compensation and providing direct oversight of the authority's annual independent audit. The governance committee is responsible for reviewing corporate governance trends, keeping the Board informed of best governance practices, updating the authority's corporate governance principles and advising appointing authorities on the skills and experiences required of potential board members. The formal establishment of audit and governance committees helps a public authority to improve oversight and accountability and to assist the board of directors in making better decisions.

The Board has established both an Audit and a Governance committee, with each committee consisting of three Board members. As indicated, it is not clear if these committees are meeting as frequently as necessary, as they do not record minutes of their meetings. While the responsibilities of the committees are defined in the by-laws, committee charters have not been adopted by the Board. As a result of our review, the Board reviewed the functions of its committees and approved a charter for both the Audit Committee and the Governance Committee at its November and December 2008 meetings, respectively.

Training

Section 2824(2) of Public Authorities Law requires all individuals appointed to the board of a public authority to participate in State-approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of an authority within one year of appointment to the Board. All of the Agency's Board members have served on the Board for at least one year. However, at the time of our review three of the seven members had not attended the required State approved training.

Agency management stated that the four members that participated in the City University of New York (CUNY) training sessions found many of the covered subjects to be beyond the scope of, and largely irrelevant to, the activities of an IDA, but that the Agency is seeking to utilize approved trainers that have developed a curriculum more appropriate and adaptable to the Agency's operations.

Conflicts of Interest

Section 803 of General Municipal Law states any municipal officer or employee who has, will have or later acquires an interest in any actual or proposed contract with the municipality of which he or she is an officer or employee shall publicly disclose the nature and extent of such interest in writing to the governing body, and that this written disclosure should be made part of the official record of the proceedings. Furthermore, board members must disclose any relationship prior to the authority considering doing

business with a vendor, and the board member should be recused from any board discussion or decision on such transactions.

We found that the Agency has taken appropriate measures to ensure that conflicts of interest are avoided, or are disclosed in writing. For example, the Agency's code of ethics requires that all Board members be independent and require that any individual with a material interest in a potential project disclose this interest in writing for public inspection. We also noted instances where Board members abstained from voting on resolutions in which they may have had a relationship with the project, as well as instances where members voluntarily disclosed even indirect relationships that would not be considered conflicts of interest, so as to disclose any potential perceived conflict.

Financial Disclosure

Section 2825(3) of the Public Authorities Law requires board members, officers, and employees of local public authorities to follow financial disclosure policies established by the county board of ethics for the county in which the local public authority has its primary offices. Westchester County has established local laws for financial disclosure that require individuals appointed to voluntary positions to submit completed financial disclosure statements with the County Board of Ethics by May 1st of each year. We found that all Board members and management have submitted their financial disclosures forms to the County Board of Ethics for 2006 and 2007.

Management Practices

Uniform Tax Exemption Policy

Section 874(4) of General Municipal Law requires agencies to establish a uniform tax exemption policy and to provide guidelines for claiming real property, mortgage recording, and sales tax exemptions, as well as procedures for payments in lieu of taxes (PILOTS). The guidelines are to include the schedule of tax exemptions being offered and the types of projects eligible to receive tax exemptions. The policy should consider the extent to which jobs will be created or retained; the estimated value of the tax exemptions being provided; how exemptions will be reimbursed should the project not meet the terms of the project agreement; the economic impact of the project on existing businesses; and whether the project has public support. Agencies are also required to establish a procedure to be followed should it be necessary to deviate from the uniform tax exemption policy.

The Agency has established a Uniform Tax Exemption Policy and Guidelines (Guidelines). The Guidelines include general provisions for claiming real property tax abatements and entering into payment-in-lieu-of-taxes (PILOT) agreements, as well as allowing for mortgage recording and sales tax exemptions. In addition, the Guidelines require the Agency to assess the extent to which the project will create or retain private sector employment, the impact of a project on local businesses and economic development projects in the County, and public support for the project. The Guidelines also allow for the Agency to deviate from the established guidelines subject to Board approval and prior notification to all affected municipalities.

The Agency's Guidelines allow for 100 percent sales tax exemptions to certain types of projects up until project completion. The Guidelines also allow for exemptions from the mortgage recording tax for all projects where a mortgage on the project is granted as security for Agency obligations. Although real property tax exemptions for specific projects are allowed, the Guidelines do not provide a timeframe or percentage for real property tax exemptions. It is the Agency's informal policy that the affected municipality and local taxing jurisdictions will be responsible for negotiating and determining real property tax abatements and PILOT agreements. The Agency authorizes the PILOT agreement between the municipality and the project owner only by way of Board approval of the project agreement. Therefore, the Agency stated it does not provide specific timeframes or a real property tax exemption schedule in its Guidelines since these decisions are made by local governments.

Agency management agreed that the Guidelines could be more clearly written to explain the process the Agency takes when allowing certain types of exemptions. It stated, however, that revising the Guidelines would require public hearings and approval from every municipality in the County. However, we believe the Agency

should update its policies and procedures to articulate its approach for allowing real property tax exemptions. In addition, the Agency should delineate the procedures for recapturing benefits from projects that are not meeting their agreements. The Guidelines could include provisions as to how and when the benefits would be recaptured and monies reimbursed to the Agency.

Good governance practices require formal procedures be adopted to monitor adherence with the PILOT agreement. We found the Agency does not have guidelines for monitoring PILOT agreements. As indicated, it is the Agency's policy that the project owners negotiate the PILOT agreement with the affected local taxing jurisdictions, and, as such, the Agency believes it to be the responsibility of the municipality to collect payments and monitor PILOT agreements. Despite this, the Agency has an informal approach for monitoring PILOT agreements. For annual reporting purposes the Agency requests that local assessors provide it with the assessed value of projects, the amount of municipal, school and county taxes that the project would be required to pay if there was no PILOT in place, the total PILOT payments the project is required to make, and whether those payments were appropriately made. The Agency stated that if a project is not making its PILOT payment, or is making a payment that is less than the amount due under the agreement, it may intervene at the request of the local tax assessor and initiate action against the project. We believe that these practices should be formalized and adopted by the Board.

Public Hearings

Section 859-a of General Municipal Law states that an agency must hold a public hearing with respect to a proposed project and financial assistance, and that thirty days notice be given in advance of the hearing. We found that the Agency holds public hearings with respect to projects that are to receive more than \$100,000 in financial assistance and provides thirty days notice in advance of public hearings, as required by the Law.

Internal Control Assessment

Section 2800(2) of Public Authorities Law requires authorities to assess and report on the effectiveness of their internal control structure and procedures. Agency management does not conduct or document a self-evaluation or formal management assessment of its internal control structure and procedures. Rather, the Agency relies on the opinion from its independent audit report as the assessment of the Agency's internal controls. However, the independent audit report only provides an opinion on whether the financial statements are free from material misstatements, and does not provide an opinion on the Agency's internal controls. Although the Agency relies on the County for most of its administrative processes, management should be responsible for assessing and evaluating the effectiveness of the controls being

followed by the County to ensure Agency operations are being conducted as intended. The results should be presented to the Board.

Procurement Guidelines

Section 104(b) of General Municipal Law requires goods and services to be procured pursuant to competitive bidding in a manner that assures the prudent and economical use of public moneys, and requires the Board to identify a purchasing officer and annually review the procurement policy.

We found that the Agency has adopted the County's procurement policy and made it available on the Agency's website. However, the County's procurement policy appears insufficient since it does not include relevant provisions for when Board approval of contracts would be appropriate. The policy also does not require that it be annually adopted by the Board. As a result of our review, the Agency is working on a new procurement policy, in lieu of their former reliance on the County's policy, and expects to adopt the new policy in January 2009.

The County's procurement policy requires competitive selection, through written quotations or requests for proposals, for professional services contracts of \$20,000 or more. We reviewed documentation for five Agency contracts: two were competitively bid as required by the procurement policy. We found no documentation to show that three contracts for legal, audit, and governmental relations services were competitively selected, although each of these contracts exceeded \$20,000. No documentation was retained by Agency management to show that the contracts selected were based on best price and value.

Investment Guidelines

Section 2925 of Public Authorities Law requires all authorities to establish guidelines to govern investment practices. These guidelines should instruct officers regarding the investing, monitoring and reporting of funds, require that an independent audit of investments be done annually, and require that it be reviewed annually by the Board.

We found the Agency's investment policy does not include all of the required provisions of Section 2925 of Public Authorities Law. Specifically the policy does not include a list of permitted investments, standards for diversification of investments, provisions to secure the Agency's financial interest in investments, or a requirement for an annual independent audit of investments. The Agency's policy does include provisions for the monitoring and reporting of the Agency's investments. However, we found that the Board and management have not been following these provisions, since they have not received an annual investment report or annually approved the investment policy. This was brought to management's attention and the Board was provided with an annual investment report at the November 2008 meeting. At this meeting, the Board also tightened the requirements for collateralization of bank deposits in excess of FDIC insured

amounts. The Agency indicated that the investment policy will be revised and brought to the Board for approval at the January 2009 meeting.

Property Disposition

Section 2896 of Public Authorities Law requires public authorities to adopt guidelines regarding the use, awarding, monitoring, and reporting of contracts for the disposal of real property. The guidelines are to also designate an officer to be responsible for the execution of real property contracts, and be annually reviewed and approved by the Board and provided to the Office of the State Comptroller by March 31. The Agency owns one parcel of real property, and has established comprehensive property disposition policy for the awarding, monitoring, and reporting the disposal of property. The policy also designates the Executive Director as the Agency's official contracting officer. The policy further requires that property owned by the Agency not be disposed of for less than fair market value. The policy does require annual review and approval by the Board; however, our review does not show that the policy was being reviewed annually by the Board. As a result of our review, the Board discussed the property disposition policy during the November 2008 meeting and the revised policy was adopted at the Board's December 2008 meeting.

Transparency

Section 2800(2) (b) of Public Authorities Law requires local authorities to make information regarding its mission, current activities, and financial data accessible to the public to the extent practicable through the use of Internet web sites. The Agency has a web site, accessible through the County web site, with information on the Agency's activities, projects, finances, policies and procedures. In addition, the Agency's web site provides Board member information and meeting minutes. The Agency's web site could be improved by including Audit and Governance Committee minutes and by providing more information on the Agency's project approval process, such as the Agency's Uniform Tax Exemption Policy and project applications.

Annual Reporting

Section 2800(2) of the Public Authorities Law requires agencies to file an Annual Report with the State on their operations, finances, indebtedness, and project information utilizing the Public Authorities Reporting Information System (PARIS) within 90 days of the end of their fiscal year. The Agency has completed and filed its 2007 annual report utilizing PARIS and provided this information on the Agency's website.

Section 2801 of Public Authorities Law requires local authorities to submit budget information to the State sixty days prior to the start of their fiscal year. The Agency submitted its 2008 and 2009 budget information to the Authority Budget Office utilizing PARIS.

Recommendations

Compliance Issues

Open Meetings

The Audit and Governance committees are not keeping minutes of their meetings, as required by Sections 104 and 106 of Public Officers Law.

Training

Three of the seven Board members did not participate in State-approved training within one year of appointment, as required by Section 2824(2) of Public Authorities Law.

Internal Control Assessment

Agency management has not conducted an internal control assessment, as required by Section 2800(2) of Public Authorities Law.

Procurement

The Agency did not formally obtain and document quotes, qualifications, or requests for proposals for the three professional service contracts that it currently maintains, as required by its procurement policy.

Investment Guidelines

The Agency's investment guidelines are not in full compliance with the auditing and reporting requirements of Section 2925 of Public Authorities Law.

Good Governance Practices

1. The Board should ensure that policies and procedures of the Agency are adopted and annually reviewed as necessary, including those utilized by the County.
2. The Board should formally adopt objective criteria to evaluate requests for financial assistance.
3. The Board should formally document and adopt the procedures taken to monitor projects and recapture benefits.
4. The Board should better document the reasons for adjourning to executive session and indicate the specific issue being discussed, as well as citing the specific exemption of the Open Meetings Law.
5. The Audit and Governance committees should maintain official records of the proceedings and ensure they are actively meeting and fulfilling their responsibilities.
6. The Board should ensure that all appointed Board members receive the required State approved training.
7. Agency management should revise the Uniform Tax Exemption Policy to reflect its policy of allowing the municipality to determine total tax exemptions.
8. The Board should formally document and adopt Agency management's practice of monitoring PILOT agreements.
9. Agency management should establish a formal procedure for assessing and reporting on the effectiveness of its internal control structure and procedures as required by Section 2800(2)(a)(9).
10. The Agency should document the selection for professional service contracts to ensure that the Agency is receiving competitive pricing.
11. Agency management should update investment guidelines to include a list of permitted investments, standards for diversification of investments, provisions to secure the Agency's financial interest in investments, and a requirement for an annual independent audit of investments as required under Section 2925 of Public Authorities Law.