

TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Mission, Policies and Procedures

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September 2013, June 2014

MISSION

The primary mission of the Tompkins County Industrial Development Agency (IDA) is to offer economic incentives to Tompkins County businesses in order to create and retain quality employment opportunities and strengthen the local tax base. The IDA targets the industrial sector and will only consider other sectors if certain criteria are met.

POLICIES

A. Eligible Projects

In general, the IDA avoids offering incentives to businesses that will compete with or displace existing Tompkins County businesses. It prefers to assist those businesses that have a market for products or services extending beyond Tompkins County including "back office" operations and regional or national headquarters. The IDA will also assist companies selling their product or service in the County when it is clear their primary competition is from outside of the County.

Types of eligible projects:

1. Industrial - The IDA targets the industrial sector because of the quality of the jobs this sector creates and because it is unlikely applicants will be competing with other Tompkins County businesses. The IDA defines 'industrial' very broadly to include computer software, agri-business, printing, publishing, and research and development.
2. Retail/Commercial Projects - The IDA will only consider retail/commercial projects under the following conditions:
 - a. The project is a critical part of a larger, planned development.
 - b. The project must be endorsed, by the appropriate municipal governing body or a committee appointed by the municipal governing body.
 - c. In addition to these local policies, New York State prohibits retail projects unless some of the following conditions are met; the project:
 - i. Is considered a tourism destination facility
 - ii. Is operated by a not-for-profit corporation
 - iii. Will locate outside of the State without IDA assistance
 - iv. Is located in a highly distressed area
 - v. Makes available goods or services not reasonably accessible
 - vi. Preserves or increases permanent jobs
3. **As of January 2008, the TCIDA no longer issue tax-exempt bonds. Tompkins County Development Corporation (TCDC) has been set up to take over this feature. Please see www.tompkinsdc.org**

Not-for-Profit Projects - The IDA views its principle role as assisting industrial projects, however New York State law now makes it possible for the IDA to help not-for-profit corporations finance certain facilities through the issuance of bonds. The IDA recognizes not-for-profit corporations as vital to the community, therefore, job creation is not the primary consideration when reviewing these projects. The IDA will only consider not-for-profit projects that meet the conditions of either item "a." or item "b."; and the conditions of item "c." (see below):

- a. *IDA incentives will assist the applicant deliver services important to the health, well-being or quality-of-life of local residents.*
 - b. *The applicant's operation has important and measurable direct or indirect benefits to the Tompkins County economy in terms of property tax, sales tax and employment. IDA incentives will help support the ability of the applicant to operate in an efficient and productive manner.*
 - c. *IDA incentives will not result in an unfair competitive advantage with similar for-profit or not-for-profit operations in the County.*
- 4. Community Investment Incentive Tax Abatement Program (CIITAP) for City of Ithaca Downtown Projects – for application process and incentives to be delivered, please refer to the separate policy.
 - 5. Energy-Related Investment Projects: The IDA wishes to encourage local businesses to invest in facilities and equipment that will increase energy efficiency and/or transition to renewable energy sources, reduce operating costs, and lower emissions. The IDA will consider offering sales tax abatement to encourage these types of investments. The IDA will require a completed standard application and a separate statement that includes details on the proposed investment and the resulting reduction in energy use. To be considered, projects should meet NYSERDA or LEED criteria. The successful applicant will not need to report on job creation after completion of the project, but will be expected to report on energy use, comparing pre project and post project data.
 - 6. IDA Lansing Town Center Incentive Zone Program Projects– for application process and incentives to be delivered, please refer to the separate policy IDA Lansing Town Center Incentive Zone Program.

B. Fees

The applicant is responsible for paying the IDA Administrative Fee at the time of closing. This fee will be equal to 1% of the total value of expenses that are positively impacted by IDA incentives. This includes the value of construction of improvements to property that is impacted by property and sales tax abatement and the value of furniture, fixtures and equipment that are impacted by sales tax abatement. It will not include any purchases, such as manufacturing equipment, where the IDA does not deliver an incentive. Soft Costs (legal, consulting, financial, architectural and engineering fees) will be included in the amount considered as total value of expenses. The applicant is also responsible for paying the IDA for all legal costs it incurs including IDA Counsel and Bond Counsel fees.

In an attempt to make its incentive program cost effective for smaller projects, the IDA will reimburse the applicant for 100% of the Administrative Fee, IDA Counsel Fee, and IDA Bond Counsel Fee associated with the IDA involvement in the project if the total project cost is less than \$1 Million. For total project cost greater than \$1 Million but less than \$2 Million, the reimbursement of fees will be reimbursed on a sliding scale that declines from 100% to 0% gradually based on project size. There will be no reimbursement of fees for projects with costs over \$2 Million. The reimbursement will take the form of additional property tax abatement credited to the business in the initial years of the Payment In Lieu of Tax agreement (PILOT). The IDA retains the right to determine the credit the applicant will receive. For projects where there is no property tax abatement, there will not be any form of fee reimbursement.

For Civic Facility projects where the debt is restructured and for all other projects where the debt is refinanced or restructured, the IDA fee will be 1% of the debt service saved over the term of the new financing that results from the restructuring or refinancing or \$1,000, whichever is greater.

C. Property Tax Abatement for Standard Industrial Applications

The IDA is not required to pay real property taxes on any property it acquires. The IDA will require the applicant to make Payment In Lieu of Tax (PILOT) payments to all of the taxing authorities according to the following guidelines.

- 1. The following will be the standard property tax abatement offered to qualified businesses:

<u>YEAR</u>	<u>ABATEMENT</u>
1	90%
2	77%
3	64%
4	51%
5	39%
6	26%

2. The standard abatement will only impact taxes on improvements to the property and not taxes on existing property.
3. The IDA retains the ability to offer more than the standard abatement based on an analysis of the impact on the economy and the needs of the business. All appropriate taxing authorities will be notified of the reasons for deviation from standard policy and given an opportunity to review and comment on each project seeking a higher level of abatement before final IDA approval.

An applicant's request for more than the standard abatement, should be supported by appropriate financial documentation that clearly substantiates the need for the deviation. This documentation should include a comparison of standard vs. proposed abatement, and an explanation of the financial assumptions used in the analysis.

D. Sales Tax Abatement

The applicant will be exempt from both the local and State portion of sales tax on construction materials, equipment, and furnishings associated with the project. Pursuant to GML Section 875, the IDA shall confer an amount of sales tax exemption allowable on a project-by-project basis. The IDA is required by State law to recapture sales tax exemptions claimed by project agents in excess of the actual amount conferred by the IDA. Project agents are required to comply with all sales tax reporting requirements pursuant to GML Section 875.

The IDA may grant sales tax abatement on the value of improvements to a project in which the IDA already holds title. The project owner or occupant must submit a standard application to the IDA, providing information on the nature of the improvements, economic impact, and the need for IDA incentives.

E. Miscellaneous Taxes and Fees

The applicant is responsible for paying all Special Assessments, Revenue Stamps, Recording and Filing Fees, Transfer Taxes, Estate Taxes, and that portion of the Mortgage Tax (\$7.50 per \$1,000) that is allocated to the local municipality. The applicant does not have to pay the portion of the Mortgage Recording Tax (\$2.50 per \$1,000) that is allocated to the State.

F. Local Purchasing and Hiring Practices

The IDA requests all recipients of IDA incentives to make every effort to purchase goods and services from Tompkins County businesses and to hire Tompkins County residents. The IDA is especially supportive of projects that make a specific commitment to hire women and minorities during the construction phase or as permanent full-time workers of the project's operating businesses. The IDA may require detailed information concerning the applicant's past and projected purchasing and employment practices.

G. PILOT Mortgages

The Agency shall require the establishment of a PILOT Mortgage as a condition within the closing documents in order to secure the position of the PILOT payments versus other secured and unsecured claims.

The purpose of a PILOT Mortgage is to secure unpaid PILOT payments within a lien against the project real estate. The lender agrees that the PILOT Mortgage will have priority over any contemporaneous mortgage given to secure the rights of bondholders or to secure any conventional financing. This would make the PILOT a secured obligation. The Agency may negotiate alternate forms of security to insure payments under the PILOT.

No mortgage recording tax associated with the PILOT Mortgage will be paid.

PROCEDURES

A. Application

Tompkins County Area Development, Inc. (TCAD), provides administrative and marketing services to the IDA. Potential applicants should work with TCAD to determine whether the proposed project is eligible. If the project appears to be eligible, the applicant will be invited to submit an application for assistance. The application will be presented to the IDA board for its review. Based on the nature of the project and the incentives requested, the following will occur:

1. If the project meets the goals of the IDA and the applicant is requesting the standard incentives and the project's value is less than \$100,000, the IDA can approve the project at the initial meeting. If the project's value exceeds \$100,000, the IDA will instead adopt a resolution describing its intent to provide assistance and the nature of that assistance.
2. If the applicant is requesting more than the standard incentives, all local taxing authorities that would be impacted will be notified and given an opportunity to comment on the project before IDA approval.
3. If the project is commercial or retail in nature, the IDA can approve the project only if the above-stated criteria have been met and contingent on support by the appropriate local government.
4. If the applicant is requesting tax exempt bonding assistance, a Public Hearing and approval by the Tompkins County Legislature may be required. In some cases, preliminary approval can be granted contingent upon successful completion of these requirements. All municipal and taxing authorities impacted by the project will be notified of the public hearing within fifteen days. If after holding a public hearing, the project changes by 5% then a new public hearing must be held.
5. For non tax exempt bond projects valued over \$100,000, a Public Hearing will be held in the city, town or village where the project is located, with ten days public notice and ten days notice to the CEO of each affected municipality and school district.

Public Hearing notice for bond projects is fifteen days. Public Hearing notice for non-bond projects is ten days.

B. Notification and Reporting

1. The appropriate municipal authorities will be notified and invited to comment if a proposed IDA action will result in the relocation of a business from that municipality.
2. All appropriate taxing authorities will receive a copy of the PILOT Agreement not more than fifteen days after the project closes, and have certain rights related to payment in lieu of taxes. Late payments will be imposed a 5% penalty for the first month, plus one percent thereafter, and tax-affected jurisdictions may take direct action against project occupants if payments are delinquent.
3. Applicants will notify the State Job Service and any appropriate employment and training agencies, such as PIC/JTPA, regarding job openings that result from the project. Except as otherwise provided by collective bargaining agreements, applicants will agree to give first consideration to appropriate referrals from these agencies.
4. Businesses will be required to submit an employment report on an annual basis to include information on general job categories, salary, and women and minority employees, as well as a report on outstanding debt associated with the project.
5. When the IDA approves issuing incentives to a developer who has presented certain tenant companies as beneficiaries of these incentives, the IDA should be notified about any tenant company changes. The IDA has the right to determine if a new tenant company falls within the IDA's project guidelines, and may re-evaluate its original project approval based on this determination.
6. Under certain circumstances, a Governor's order concerning affirmative action will be in effect.