

**TOWN OF ROTTERDAM INDUSTRIAL DEVELOPMENT AGENCY
GOVERNANCE COMMITTEE MEETING
THURSDAY, SEPTEMBER 24, 2009, 6:30 – 7:00PM
ROTTERDAM TOWN HALL
1100 SUNRISE BOULEVARD
ROTTERDAM, NY 12306
2ND FLOOR BOARD ROOM**

AGENDA

1. Call to Order
2. Recapture of Benefits – potential claw back provision to be added to UTEP or new Policy
3. Other Business
4. Motion to Adjourn



UNIFORM TAX EXEMPTION POLICY

Drafted February 1994
Readopted March 1999
Amended November 13, 2008
Amended April 9, 2009
Amended June 11, 2009
Amended July 9, 2009

Section I. Purpose

The New York IDA Reform Act of 1993 (Chapters 356 and 357 of the Laws of 1993) created a new General Municipal Law Section 874 (4) that requires an Agency to establish a uniform tax exemption policy. This written policy shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions.

Section II. Real Property Tax Abatements

A. General Policy. The Onondaga County Industrial Development Agency (the "Agency") maintains a policy for the provision of real property tax abatements for qualified projects. This policy requires the Agency and the project owner or occupant to enter into a payment in lieu of taxes or PILOT agreement which provides for payments in lieu of taxes to the taxing jurisdictions generally in an amount less than what the real property taxes would be if the Agency did not cause the project to be exempt.

B. Valuation of Project. For purposes of the PILOT, the value of the project facility shall be determined by the Agency.

C. Term. The term of the PILOT agreement shall be ten (10) years. Such term may be extended or modified as project circumstances may require, but any such modification or extension must comply with the provisions of Section 412-a of the Real Property Tax Law, i.e., filing an application for exemption with the assessor, and a copy with the chief elected official of each taxing jurisdiction in which the project is located.

D. PILOT. Payments in lieu of taxes shall be described in detail in a written PILOT Agreement with the Agency. Project occupants shall pay to the Agency or its designee the amount calculated pursuant to the applicable PILOT Agreement according to a schedule to be determined by the Agency. Unless otherwise agreed by the affected taxing jurisdictions, such payments shall be allocated among the affected taxing jurisdictions in proportion to the amount of real property tax and taxes which would

have been received by each affected taxing jurisdiction had the project not been tax exempt due to the status of the Agency involvement in the project

E. Exemptions. The Agency may grant benefits and enter into an agreement for benefits on a case-by-case basis for projects expected to have a significant importance to the local economy. The following exemptions shall be applicable to the Agency PILOT agreements

1. All Projects. For all projects, the Agency will require PILOT payments equivalent to the taxes that would be owed by the applicant if the applicant owned the project and not the Agency, i.e., the percentage of the tax exemption would be zero, unless the applicant makes other written arrangements with the separate taxing jurisdictions as described in Section C-3 or unless the project receives a PILOT agreement as a net-wealth generating project as described in Section C- 2.

2. Net-wealth Generating Project PILOT Agreements. A net-wealth generating project means primarily manufacturing or manufacturing support, or service industries that primarily serve a customer base outside the County of Onondaga. The PILOT agreement for a net-wealth generating project is based upon the tax exemption afforded under Section 485-b of the Tax Law (“Exemption for New Construction”) without regard to whether the taxing jurisdiction has opted out of providing the tax exemption under Section 485-b. The PILOT payments generally are fixed payments based upon the Agency determined value of the project and other factors, including, but not limited to, any increase in the tax rate as determined on a project by project basis by the Agency and the application of the Section 485-b exemption schedule. The following exemption percentages, as provided for in Section 485-b of the Real Property Tax Law, shall apply:

| Year | % Exemption |
|------|-------------|
| 1 | 50% |
| 2 | 45% |
| 3 | 40% |
| 4 | 35% |
| 5 | 30% |
| 6 | 25% |
| 7 | 20% |
| 8 | 15% |
| 9 | 10% |
| 10 | 5% |

3. Tax Jurisdiction Consent PILOT Agreements. A tax jurisdiction consent PILOT agreement applies to a project where the affected town, village, if any, and school district consent to a proposed abatement.

4. Special Assessments and Levies. No project shall be exempt from special assessments and special ad valorem levies lawfully levied and/or assessed against the Facility Premises

F. Credits. In addition to the exemptions that the Agency may provide on a case-by-case basis for projects expected to have a significant importance to the local economy, the Agency may also provide the following credits to qualifying projects:

1. Green Building PILOT Credit. The Green Building PILOT Credit is an extension of the PILOT policy of the Agency. The purpose is to encourage the construction of "green" sustainable buildings in the County of Onondaga.

i. Eligibility. The Green Building PILOT Credit is available to any new construction that meets the basic qualifications of the Agency Uniform Tax Exemption Policy and is LEED Certified.

ii. LEED Certification. The Agency will use the United States Green Building Council (USGBC) LEED certification standard as a basis for the incentive offered. The USGBC LEED certification process has four levels: LEED Certified, LEED Silver, LEED Gold, and LEED Platinum.

iii. Green PILOT Credit. The Green PILOT Credit is a credit that will be applied against the PILOT payment schedule of a project. The Credit is based upon one of the exemptions in subsection C.

iv. Basic Green PILOT Credit Incentive Schedule. The Basic Green PILOT Credit is calculated as a percentage of the hard construction costs of the project as determined by the Agency. The percentage of the hard construction cost used to determine the Basic Green PILOT Credit for each level of LEED Certification is as follows:

| Level Of LEED Certification | Percentage of Construction Costs |
|------------------------------------|---|
| LEED Certified | 4.8% |
| LEED Silver | 8.4% |
| LEED Gold | 12.0% |
| LEED Platinum | 15.6% |

v. Zero-Tax Period. The Green PILOT Credit will be applied against the PILOT payments of the project and shall be applied to each PILOT payment until completely exhausted. A qualifying project may have a "zero-tax period". The "zero-tax period" shall not exceed five (5) years.

vi. PILOT Payment Schedule. The Agency shall adjust the PILOT payment schedule to ensure that the project receives the full financial benefit of the credit. For those projects whose Green PILOT Credit would result in “zero-tax periods” of greater than five (5) years, the PILOT payment schedule may be extended up to an additional five (5) years and the remaining credit may be applied in equal amounts to the balance of the scheduled PILOT payments.

G. Technical Assistance Group. For projects in which the Agency will make a determination regarding the payment in lieu of tax agreement for tax jurisdiction consents and PILOT deviations, the Agency shall receive advice from the Technical Assistance Group.

1. Membership. The Technical Assistance Group members shall include the Chief Fiscal Officer of Onondaga County, the Director of Real Property Tax Services, the Director of Economic Development, the Deputy County Executive, the Chair of the Onondaga County Legislative Planning and Economic Development Committee, the Executive Director of the Onondaga County Industrial Development Agency and two members of the Agency.

2. Function. The Technical Assistance Group will review the terms of a proposed PILOT agreement, and they will provide the Agency with comments and recommendations thereon.

H. Property Appraisals. The value of the project for payment in lieu of tax purposes is determined by the Agency and such valuation is provided to the applicant. If the applicant does not agree to such valuation, the Agency may obtain a real property appraisal at the applicant’s expense which it may take into consideration in determining whether the initial valuation of the project requires revision.

Section III. PILOT Deviations

In addition to or in lieu of the foregoing, the Agency may determine, on a case-by-case basis, to deviate from the policy described above or to provide enhanced benefits for a project expected to have significant impact on the locality where the project will be located or projects unusual in type or nature requiring special considerations.

Any deviations from the policy set forth above requires the written notification by the Agency to the chief executive officer of each affected tax jurisdiction at least thirty (30) days prior to the meeting of the Agency at which the proposed deviation will be considered. In determining, on a case-by-case basis, to deviate from the policy above, the Agency shall seek the advice of the Technical Assistance Group.

Section IV. Sales Tax Exemptions

A. Construction, Renovation and Equipping. When these activities are undertaken by an agent of the Agency for a project of the Agency, they are exempt from New York State sales and use tax.

B. Operating Expenses. Operating expenses incurred by an agent of the Agency for a project of the Agency are not exempt from New York State sales and use tax.

C. Exempt Certificate. The Agency will issue a certificate of exemption which shall be valid for a specified period of time stated in the certificate which shall be determined by the Agency. The certificate of exemption may be renewed subject to any restrictions and/or requirements imposed by the Agency upon such renewal. Terms of renewal shall be provided by the Agency during the application process.

D. Reporting Requirements. Agents of the Agency shall file an annual statement with the Commissioner of Taxation and Finance of the value of all sales tax exemptions claimed by the agent

Section V. Mortgage Recording Tax Exemptions

A mortgage granted by the Agency for an Agency project is exempt from the mortgage recording tax.

Section VI. Recapture

In the event the facility is sold or closed, or the number of jobs is reduced below 75% of the number employed at the time of application or below 75% of the employment projections provided by the Company, and no substantial future economic benefit is likely to accrue to the community, then the benefits received as a result of any Installment Sale Agreement, Lease Agreement, or PILOT Agreement shall be subject to recapture. The benefits received shall be determined (1) by the difference between any PILOT payments and taxes that would be paid if the property were not in the ownership or control of the Agency; (2) the value of any Sales tax exemption, and (3) the value of any Mortgage Recording Tax. Any funds recaptured shall be distributed proportionally to the affected tax jurisdictions.

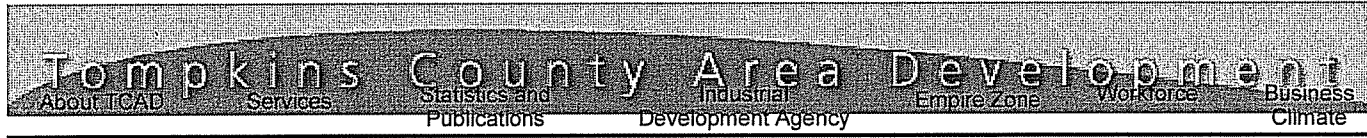
The benefits received shall be subject to recapture as follows:

| | |
|---|-----|
| Within two (2) years of completion of the Project | 75% |
| Within three (3) years: | 60% |
| Within four (4) years: | 40% |

| | |
|------------------------|-----|
| Within five (5) years: | 20% |
| Six years or more: | 0% |

Section VII. Amendment or Modification

The Agency, by resolution of its members, and upon at least ten (10) days notice to the taxing jurisdictions, may amend or modify the foregoing policy, as it may, from time to time, in its sole discretion, determine.



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Policies Procedures City Density District Map Industry Application Not-for-Profit/Bond Application Density Incentive Program

Tompkins County IDA Procedures

Economic Incentive Recapture Policy

Introduction

Recapture policies are a response to a concern that public sector economic development incentives are not achieving desired results. There have been several national, high profile examples of large public sector investments in private sector developments that, by any measure, have not yielded the new jobs or taxes projected.

Tompkins County has been fortunate in that the return on public sector investment in private sector development has generally met or exceeded expectations. As the County moves forward with a more aggressive economic development strategy, perhaps including an external marketing campaign, it is appropriate to adopt a policy that maximizes the return on public investment in economic development.

Application for Economic Development Assistance

It is assumed that existing applications for assistance require historical and projected financial information as well as detailed information concerning the incentive requested. These applications will be modified to include the following:

1. A list of all public subsidies received by the applicant or the applicant's parent company during the preceding ten (10) years to include the following:
 1. the type of subsidy received such as property tax abatement, industrial revenue bonds, direct loans or loan guarantees, grants, technical assistance or employee training;
 2. the amount and term of the subsidy;
 3. the public benefit that was projected such as job retention or increased property tax revenues;
 4. the public benefit received;
 5. name and contact information for organization granting subsidy.
2. A description of the construction jobs resulting from the proposed project, including the following:
 1. the estimated total number of jobs that will be held by Tompkins County residents;
 2. the estimated wages and value of fringe benefits to be provided.
3. A description of the permanent jobs resulting from the proposed project, including the following:
 1. existing employment by category with wages and benefits;
 2. projected new employment by year for three (3) years by category with wages and benefits.
4. A description of the jobs that will be lost, if any, as a result of the proposed project, including wage and benefit information. This particularly related to productivity improvements.
5. A description of non-employment-related economic benefits, including the following:
 1. property taxes and special assessments by jurisdiction for three (3) years;
 2. sales tax on construction materials, furnishing and fixtures for the initial project;
 3. mortgage recording tax;
 4. purchases from local suppliers or subcontractors on an annual basis for three (3) years.
6. A summary of the company's products and markets particularly as they relate to possible competition with other Tompkins County companies.

Reporting Requirements

1. On an annual basis for the duration of the term of the assistance provided, the company will provide the following information:
 1. average annual employment by category with wage, benefits and residence of employee;
 2. property taxes and special assessments paid;
 3. local and New York State sales tax paid;
 4. any other information relevant to the project that the IDA deems appropriate.

Economic Incentives Recapture Policy Provisions

Recapture policies are a response to a concern that public sector economic development incentives are not achieving desired results. There have been several national, high profile examples of large public sector investments in private sector developments that, by any measure, have not yielded the new jobs or taxes projected.

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1. If the company shifts production activity to a facility outside of Tompkins County and, as a result, fails to achieve the economic benefits projected, then the IDA will declare the agreement to be in default and require the value of the incentives utilized to date to be repaid, with interest (determined as the New York State legal interest rate).
2. If it is determined that the economic benefits projected have not been achieved for reasons other than described above, then the IDA will afford the company a hearing where the company can be heard as to the issue. The following criteria will be used to determine if a valid explanation exists for failure to achieve the economic benefits projected by the company.
 1. Natural Disaster: if a natural disaster such as a fire, flood, or tornado disrupts the business
 2. Industry Trends: An evaluation of industry trends will be made relevant to the company, and a determination reached as to whether the company is in a market that is declining. International and national data will be used in the evaluation. An industry is considered in decline when, measured by the appropriate SIC code, it experiences employment or revenue declines—beyond its control—of 10% or more over 3 years.
 3. Loss of Major Supplier or Customer: if the loss of a customer or supplier represents 15% or more of the sales of the company
 4. Productivity Improvements: if new technology, equipment or general productivity improvements result in the need for less than projected employees or investment
 5. Unfair Competition: if an international competitor utilizes an unfair competitive advantage to acquire market share
3. If the IDA, based on criteria outlined in points 1 and 2 above, then determines that the company's reasons for failing to meet the economic benefit projections are invalid, the IDA can declare the agreement to be in default and require the value of in the incentive utilized to date to be repaid, with interest.
4. The IDA granting the economic incentive retains all rights to impose, delay or waive penalties.
5. The policy is effective as of the date of project approval and applies to all current and future projects.

Tompkins County Industrial Development Agency (TCIDA) Standards of Conduct/Code of Ethics

Definition: (a) Board Member or Employee means a board member, employee, or administrator of the Tompkins County Industrial Development Agency (TCIDA), whether paid or unpaid.

(b) Interest means a pecuniary or material benefit accruing to a board member, employee or administrator unless the context otherwise requires.

Policy: The Board of Directors of the Tompkins County Industrial Development Agency recognizes that there are rules of ethical conduct for board members, employees, or administrators that must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained. It is the purpose of this Standard of Conduct to promulgate these rules of ethical conduct for the board members, employees, or administrators of the Tompkins County Industrial Development Agency. These rules shall serve as a guide for official conduct of the board members, employees, or administrators of the Tompkins County Industrial Development Agency.

Procedure:

Standards of conduct

Every the board member, employee, or administrator of the Tompkins County Industrial Development Agency shall be subject to and abide by the following standards of conduct.

(a) Gifts

limit set by New York State whichever is higher, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be expected to influence the performance of official duties or was intended as a reward for any official action.

(b) Confidential Information

Shall not disclose confidential information or use such information to further a personal interest.

For the purposes of the Code of Ethics, all information falls into one of three categories: the class of information which is never confidential, the class of information which is always confidential, and the class of information which may be confidential.

Some internal or interagency records, communications, and reports are never confidential. According to the Public Officers Law, this is true of information that is:

- the result of an external audit; or
- statistical data; or
- an instruction to staff that affects the public; or
- making public a final policy or determination made by the county or one of its departments.

Disclosure or use of such information is not restricted by the Code of Ethics.

Information is always confidential when its disclosure would:

- impair current or imminent contract awards or collective bargaining negotiations; or
- impair a business's ability to compete in the market place such as proprietary financial or business information; or
- interfere with law enforcement investigations or judicial proceedings; or
- deprive a person of their right to a fair trial or impartial adjudication; or
- constitute an unwarranted invasion of privacy; or
- endanger the life or safety of any person.

Information that is always confidential also includes:

- information that is specified as non-disclosable by federal or state law.

No board member, employee, or administrator of the Tompkins County Industrial Development Agency may ever disclose such information or use such information to further a personal interest.

Any information that does not clearly fall into just one of the above categories may be confidential.

(c) Representation before one's own agency: shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter brought before the TCIDA for consideration.

(d) Representation before any agency for a contingent fee: Shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the TCIDA for consideration, whereby his/her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

(e) Investments in conflict with official duties: shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transactions, which creates a conflict with official duties.

(f) Private employment: shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of official duties.

Board members, employees, or administrators of the Tompkins County Industrial Development Agency shall file by May 15 of each year an annual disclosure statement. This shall be submitted to the Clerk of the Tompkins County Board of Representatives in the form prescribed by resolution of the Tompkins County Board of Representatives upon recommendation of the Ethics Advisory Board. The Clerk shall retain the forms on behalf of the Ethics Advisory Board and make them available for inspection as detailed below.

The Clerk of the Tompkins County Board shall make the information submitted on Annual Disclosure Statements available, on request, to the members of the Ethics Advisory Board, County Attorney, County Administrator, Director of Finance, State Auditor and Commissioner of Personnel. The Clerk shall also make the information submitted on Annual Disclosure Statements available to any other individual submitting a request to see it, as required by the Freedom of Information Law, but shall withhold from their inspection the range of market value of investments.

The County Attorney shall confirm filing by all required filers. Requests for determination regarding conflicts shall be referred by the County Attorney to the Ethics Advisory Board. If the County Attorney determines that any required filers have not completed and filed an accurate and complete disclosure form the County Attorney shall report this to the appropriate supervisor.

Distribution of code of ethics

The chairman of the Board of the Tompkins Industrial Development Agency shall cause a copy of this code of ethics to be distributed to every board member, employee, or administrator of the Tompkins County Industrial Development Agency within thirty (30) days after the effective date of this local law.

Penalties

Any person who shall knowingly and intentionally violate any of the provisions of this code may be suspended or removed from office or employment, as the case may be, in the manner provided by law.

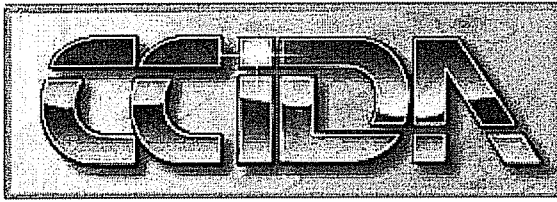
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TAX EXEMPTION POLICY

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COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY

The general policy of the County of Chautauqua Industrial Development Agency (the "Agency") is to grant abatements and exemptions from sales, use and mortgage recording taxes as described below. The Agency may grant a case by case basis for a project expected to have a significant economic impact on Chautauqua County, as determined by the Agency.

A. Real Property Taxes.

The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The Agency applies to value added by construction or renovation, and the existing parcel involved; provided, however, in no event the Agency result in revenue to the affected tax jurisdictions in any tax year, be less than the revenues received in the involvement by the Agency. The period of the exemption will not exceed twenty (20) years. The Agency's policy result schedule of abatement applicable to County, Municipal and School taxes, for the period of the exemption. Each abatement in the percentage of taxes due to remain equal through the life of the abatement, as established by the Board of Direct maximum initial abatement is equal to fifty percent (50%) with no annual increases for a period of ten (10) years. Eligible industrial projects (i.e. manufacturing, re-manufacturing, assembly, processing, product research and development, etc.) projects (i.e. warehouse, wholesale/distribution, qualified retail, office, hotel, etc.).

Any deviations from the standard policy will be made only with the specific approval of the Agency's members listed in paragraph E and those described in the New York State General Municipal Law Section 874(4)(a). Additional notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefore.

The Agency will use existing tax data, or building values as established by the Assessor of the municipal jurisdiction project is located or by the Agency, as the basis to negotiate the payment in lieu of tax agreement. Therefore, Appraisal required.

B. Payment in Lieu of Taxes.

Each project receiving an abatement will be subject to a Payment in Lieu of Tax Agreement ("PILOT Agreement") acceptable to the Agency. The Agency will consider project factors, similar to those described in paragraph E herein, amounts to be paid under the PILOT Agreement. A copy of the PILOT Agreement will be forwarded to each of the affected jurisdictions within fifteen (15) days of execution. Unless otherwise agreed by the Agency, with input from the affected tax jurisdictions, shall be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would be allocated among the affected tax jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project.

The PILOT payment payable in the first tax bill following the Completion Date of the project and in each tax bill thereafter. The PILOT shall be an amount equal to (i) the assessed value, times (ii) the tax equalization rate of the applicable taxing jurisdiction, times (iii) the current tax rate for the applicable taxing municipality, times (iv) the abatement percentage discount.

For purposes of computing the PILOT payment, (i) the "term of the PILOT" shall be (10) full tax fiscal years following the "Completion Date", and shall take effect on the first Taxable Status Date following the deed transfer of the project.

Payment under the PILOT program must be made by the Applicant to the appropriate taxing entity at the time the taxes must be paid. The PILOT Agreement does not abate special assessments, special district taxes or other special taxes.

C. Sales and Use Tax Exemptions.

1) Purchases of construction materials and equipment rentals and purchases of project related equipment, furnished made as agent for the Agency, and are therefore afforded full exemption from local and New York State Sales and Use taxes if the project is completed.

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(i.e.: certificate of occupancy) or until the date certain established by the Agency on a project-by-project basis. Opera expenses of projects are not incurred as agent of the Agency, and no sales tax exemption is provided thereof.

2) All project applicants must agree in writing to file with the New York State Department of Taxation, in form and annual statement of the value of all sales and use taxes exemption claimed in connection with the facility in full compliance of the General Municipal Law, and any other statutory or regulatory requirements.

3) In all cases, the Tax Exemption letter will only be issued for a period not to exceed one (1) year from the date of issuance. In the event the project has not been completed within the one year term, the applicant will be required to petition the State for the Sales and Use Tax Exemption.

D. Mortgage Recording Tax Exemptions.

1) The Agency's policy is to permit mortgage recording tax exemptions on all project related financing to the extent permitted by New York State Law, whether or not the Agency has issued its bonds to finance the Project.

2) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financing (e.g.: second mortgages on the project to secure subordinated indebtedness of the project applicant). In determining whether to grant such exemptions on non-project related financing, the Agency shall consider such factors as it deems appropriate, including use of the property, the degree of investment, the degree and nature of the employment and the economic condition of the facility is located.

E. Deviations.

In addition to or in lieu of the foregoing the Agency may determine, on a case by case basis, to modify the guidelines described above or provide enhanced benefits for a project expected to have significant impact in the locality where the project is located. Any deviations from the guidelines set forth above requires the written notification by the Agency to the chief executive officers of each affected tax jurisdictions. The Agency may consider any or all of the following factors in making such determination which is determinative:

- 1) The nature of the proposed project (e.g.: manufacturing, commercial, civic etc.).
- 2) The nature of the property before the project begins (e.g.: vacant land, vacant building, brownfield site, etc.)
- 3) The economic condition of the area at the time of the application and the economic multiplying effect the project will have on the area.
- 4) The extent to which the project will create or retain permanent, private sector jobs, the number of jobs to be created and the salary ranges of such jobs.
- 5) The estimated value of tax exemptions to be provided.
- 6) The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- 7) The impact of the proposed project on existing and proposed businesses and economic development projects in the area.
- 8) The amount of private sector investment generated or likely to be generated by the proposed project.
- 9) The likelihood of accomplishing the proposed project in a timely fashion.
- 10) The effect of the proposed project upon the environment and surrounding property.
- 11) The extent to which the proposed project will require the provision of additional services including, but not limited to, transportation, emergency medical or police and fire services.
- 12) The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- 13) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available in the area in which the project is located.

F. Recapture of Benefits.

The Agency, at its sole discretion and on a case-by-case basis, may determine, (but shall not be limited to) with respect to a particular project, that a project has failed to meet its intended goals and to require the project applicant to repay to the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's actions. Events that the Agency may determine will trigger recapture may include, but not be limited to:

- 1) Sale or closure of facility within the time period the company receives Agency benefit,
- 2) Significant employment reduction;
- 3) Significant change in use in facility;
- 4) Significant change in business activities or project applicant or operator; or
- 5) Material noncompliance with or breach of terms of Agency transaction documents, or of zoning or land use law or other applicable federal, state or local environmental laws or regulations.

If the Agency determines to provide for the recapture with respect to a particular project the Agency also shall

and on a case-by-case basis, determine the timing and percentage of recapture.

G. Effective Date.

This Uniform Tax Exemption Policy shall apply to all projects for which the Agency has adopted Inducement Resolution on or after February 20, 1998, and all re-financing of any project induced or closed before said

H. Amendments.

The Agency, by resolution of its members, and upon notice to all affected tax jurisdictions as may amend or modify the foregoing policy as it may, from time to time, in its sole discretion determine.

Dated: February 20, 1998.

Recommended IDA Practices and Legislative Recommendations

Websites: IDAs should have their own web site or share space on local government site (Phase-in over 12 months since not all IDAs currently have web sites)

Information on the web site should include:

- a. notice of public hearings
- b. notice of board meetings & board meeting agendas
- c. minutes of past board meetings
- d. IDA application
- e. UTEP
- f. list of board members and senior IDA staff
- g. annual report
- h. annual audited financial statement
- i. annual OSC financial report and supplemental report
- j. IDA by-laws and policies

Project Data Reports: IDAs should post on their web sites certain information pertaining to projects they assist, including the following: (This requirement should apply prospectively)

- a. type of project: for profit or not-for-profit, expansion, new, etc.
- b. project purpose: attraction; retention; expansion, housing, life care, educational, cultural
- c. estimated jobs to be created and/or retained at time of application and actual jobs at time of report.
- d. value of IDA incentives provided cumulatively at time of report (i.e. Value of Real Property Tax, Sales Tax, and Mortgage Recording Tax abatements).
- e. project closing date
- f. standard cost-benefit data
- g. value of estimated total project investment

Uniform Project Evaluation/Project Criteria: IDAs should develop their own project selection criteria. Those criteria should be based on the economic development condition and objectives of the community served by the IDA. However, a rational set of criteria should guide the IDA and its board in making decisions about what projects to assist.

Jobs Monitoring and "Clawbacks": IDAs are required to annually report to the State Comptroller's Office the number of jobs at the project location. To meet this requirement, IDAs should do the following:

- a. annually survey all project owners for which the IDA is currently providing incentives with regard to number of jobs on the project site
- b. require an annual certification by a senior executive of the project company attesting to the number of employees at the project location
- c. require all IDAs to develop an incentive clawback/suspension policy which should be included in the IDAs project application, and which should indicate the circumstances under which the policy may be triggered
- d. authorize local taxing jurisdictions to collect incentives owed under a "clawback."

Uniform Applications: IDAs should provide at least the following information on their project applications. Additional information pertaining to the unique economic development conditions and goals of the region may be added to this base line of information.

- a. company name and address
- b. project address
- c. senior decision maker and company attorney contact info
- d. name of project architect/engineer/contractor (if known)
- e. history of applicant, including:
 - year business was established
 - annual report, if applicable
 - statement and status regarding past use of government incentives
- f. project description, including the following:
 - statement describing project (i.e. land acquisition, construction of manufacturing facility, etc.)
 - location
 - property and/or building size
 - proposed start and completion date
 - certification that project will not result in relocation of jobs from other regions of NY
 - If jobs are relocated, a narrative should be provided how project would prevent the company from locating project in another state, or how project is needed to prevent harm to company's competitive position
- g. project costs, including:
 - value of land to be acquired
 - value of building to be acquired or built
 - value of improvements to existing structures
 - value of equipment to be purchased
 - estimated cost of engineering/architectural services
- h. project benefits
 - estimated number of construction jobs
 - estimated number of jobs to be created/retained
 - estimated total investment
 - estimated annual local sales taxes to be paid
 - estimated average wages and benefits by job category
- i. value of incentives
 - existing RPT paid on land and/or building
 - estimated new RPT revenue if projects did not receive RPT abatement
 - estimated new tax revenue if project does receive abatement
 - estimated time of Sales Tax abatement
 - o estimated value of Sales Tax abatement for facility construction
 - o estimated Sales Tax abatement for fixtures and equipment
 - o estimated value of Mortgage Recording Tax abatement
- j. need for incentives: a narrative description by the applicant for the need for the IDA assistance requested
- k. employment information
 - estimate of jobs to be created or retained over a defined period of time (3 years?)
 - certification by senior executive as to number of existing jobs
 - estimated jobs by major category (including construction jobs)
 - salary ranges for each category

UTEP Re-Authorization: IDAs should re-authorize their PILOT policies every five years. Such reauthorization should include input from local taxing jurisdictions.