

City of Poughkeepsie Industrial Development Agency

Project Approval and Monitoring

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OFFICE OF THE NEW YORK STATE COMPTROLLER
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Report Highlights

City of Poughkeepsie Industrial Development Agency

Audit Objective

Determine whether the City of Poughkeepsie Industrial Development Agency (CPIDA) Board properly evaluated and awarded projects and monitored the performance of the businesses that received financial benefits.

Key Findings

The CPIDA Board did not properly evaluate and approve projects and monitor the performance of businesses that received financial benefits. Specifically:

- The Board did not have a process to adequately oversee and monitor CPIDA projects. As a result, projects were missing applications, cost-benefit analyses, project agreements and uniform tax exemption policies.
- The Board cannot verify two projects' self-reported and calculated revenues upon which their payments in lieu of taxes (PILOTs) are based on. These projects have 99-year PILOT agreements.
- CPIDA officials did not ensure that projects were assessed late payment penalties totaling \$30,676.

Key Recommendations

- Develop written procedures to periodically monitor projects' progress and document findings in writing.
- Require the City or one of the taxing jurisdictions to request the project owners' financial information to ensure the City is receiving the proper PILOT amounts.
- Ensure City officials provide the Board with periodic PILOT payment reports and assess penalties for late payments.

CPIDA officials generally agreed with our findings and indicated they plan to initiate corrective action.

Background

CPIDA is an independent public benefit corporation established in 1974 for the benefit of the City of Poughkeepsie (City) and its inhabitants. CPIDA is governed by a Board which currently comprises four members, appointed by the City's Common Council. The Board is responsible for reviewing and approving prospective project applications and the general oversight of CPIDA's financial and operational affairs. The Board has contracted with a consultant to handle day-to-day operations, including collecting approved project information.

CPIDA annually reports information to the New York State Authorities Budget Office (ABO) for approved projects, including granted tax exemptions, PILOT and project employment.

Quick Facts

Number of Projects Approved During Audit Period	10
Total Projects' Costs	\$201,499,592
Total Exemptions Granted as of 12/31/20	\$28,242,914
Total PILOT Payments as of 12/31/20	\$6,395,612

Audit Period

January 1, 2018 – April 29, 2020

We extended our scope period to December 31, 2020 to review Public Authorities Reporting Information System (PARIS) report for all active/open CPIDA projects.

Project Approval and Monitoring

Industrial development agencies (IDAs) are independent public benefit corporations whose purpose is to promote, develop and assist industrial, manufacturing, warehousing, commercial, research and recreation facilities. The overall goal of IDAs is to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York. The powers and duties of IDAs are set forth under New York State General Municipal Law (GML). Typically, projects that receive IDA benefits involve the acquisition, construction or major renovations of buildings or other structures, and generate short-term and long-term employment in construction and operations-related jobs.

CPIDA offers financial assistance to businesses, including abatements and exemptions from property, sales, use and mortgage recording taxes, grants and bond financing for projects. This is done by generally taking title or entering into lease-leaseback agreements of the property owned or leased by the business. Many projects receiving CPIDA financial assistance promise to create new jobs or retain existing jobs in the community, invest in new buildings or in the renovation of existing buildings, and agree to make annual payment in lieu of taxes (PILOT) payments for affected tax jurisdictions (municipalities or school districts) to help offset the loss of revenues from the tax exemptions provided. Payments are made in accordance with PILOT agreements governed by CPIDA's Uniform Tax Exemption Policy (UTEP).

How Should IDA Projects Be Properly Approved?

Effective June 2016, IDAs must comply with certain statutory requirements before providing financial assistance, which include the following:

Project Application and Approval – IDAs are required to develop a standard application form that must include the name and address of the applicant, a description of the proposed project, the amount and type of financial assistance requested, an estimate of the project's capital costs, the projected number of jobs to be retained or created and a statement acknowledging that the submission of any knowingly false or misleading information may lead to termination of any financial assistance.

Also, an IDA can require applicants to submit supplemental information with their applications. This could include supporting documents and information the IDA board needs to assist it in evaluating the project.

Cost-Benefit Analysis (CBA) – An IDA's uniform selection criteria requires the IDA to prepare a written CBA, prior to project approval, that identifies the extent to which a project will create or retain permanent jobs, estimated value of any tax exemptions to be provided, amount of capital investment needed, likelihood of a timely project completion and extent of additional sources of revenue that the project will provide for surrounding local governments and school districts.

IDA board members and officials should ensure they understand the chosen CBA calculation methodology and ensure it meets their IDA's needs and purposes before the IDA board adopts the calculation methodology. The IDA board also should ensure that each CBA contains a conclusion or meaningful determination or summary of what the analysis indicates.

Uniform Project Agreements – IDAs must develop uniform project agreements that describe the terms and conditions under which financial assistance will be provided to project owners. The agreements must contain provisions for suspending, discontinuing or recapturing financial assistance, modifying PILOT agreements to require increased payments under specified circumstances (e.g., material violations of the terms and conditions of a project agreement) and returning all or part of financial assistance approved for a project.

At a minimum, agreements must describe the projects, amounts and types of financial assistance to be provided and the IDA's purpose to be achieved for the projects. Also, agreements must require project owners to indicate the full-time equivalent (FTE) jobs retained and created as a result of the financial assistance and indicate averages or ranges for employees' salaries and fringe benefits.

In addition, agreements must indicate PILOT payment dates and provide an estimate of the amounts payable to each affected taxing jurisdiction, such as local governments or school districts, or formulas by which those amounts may be calculated. Furthermore, measurable performance goals can be incorporated into project agreements, which can assist the IDAs in fulfilling their requirement to evaluate each project's progress.

Upon approval of projects requiring more than \$100,000 of financial assistance, an IDA board must pass a resolution indicating the name and description of the project and the amount of financial assistance (tax exemptions) for which the project was approved. Also, IDAs must complete and submit a New York State (NYS) IDA Appointment of Project Operator or Agent for Sales Tax Purposes form (ST-60 form) for each project to the NYS Department of Taxation and Finance (NYSTF). This form reports the approved amount of sales tax exemption awarded to each project to NYSTF.

Transparency – IDAs must post their standard application form, uniform selection criteria, uniform project agreement and UTEP on their website. For each approved project, IDAs must post the project's approved application form, required supplemental information, CBA and the IDA board's assessment of all material application information. In addition, each project's approved project agreement and PILOT agreement, along with all attachments and relevant records, must be posted on the website. IDAs also must post on their website documentation of their board's annual assessment of each project's progress for all projects that receive financial assistance.

Resolutions are required to be adopted describing the project and the financial assistance that the IDA is contemplating with respect to such project. Once a resolution is passed, the IDA must hold a public hearing that gives at least 10 days published notice of the public hearing in the newspaper. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project and generally describe the financial assistance contemplated by the agency with respect to the project. At the public hearing, interested parties will be provided a reasonable opportunity, both orally and in writing, to present their views with respect to the project.

The Board Did Not Properly Approve Projects

During our audit period, the Board approved 10 projects totaling \$201,499,592. We reviewed all 10 projects and found they were not properly approved.

Project Applications – CPIDA did not have applications available for five of the 10 projects we reviewed. The Board Chairperson stated that the previous Boards¹ did not provide or make the information available to the current Board. As a result, the current Board has no information to monitor and evaluate the five projects. Without the project applications, there is a risk that those businesses may have received financial assistance to which they were not entitled. Also, the CPIDA cannot assure the public that all projects were evaluated consistently without favoritism.

We examined the five projects with applications on file and found that applications for two projects (CNN Spruce and Maple Street of Dutchess) did not meet GML Section 859-a criteria. One application did not have the type of project, proposed location and purpose of the project. The other did not have the amount and type of financial assistance being requested, including the estimated amount of each type of tax exemption sought to be claimed by reason of IDA involvement in the project. As a result, the Board may not have had all the information to make an informed decision in approving the projects.

In addition, two project applications did not have proper authorization and documentation. The application for 387-397 Main Street was not notarized, making the application invalid, and the Maple Street of Dutchess' application was missing an exhibit from the application. As a result, CPIDA cannot be certain the contents were true, accurate and complete without notarization. Further, pertinent information and comparisons could not be evaluated, affecting the Board's ability to properly evaluate applications to ensure that financial incentives were given to only qualified applicants.

¹ Some Board members overlapped during project approvals. Only one Board member who served on previous Boards was a current Board member during our audit period.

Cost-Benefit Analysis – CPIDA officials did not have documentation to show they performed CBAs for five of the 10 projects we reviewed (Figure 1). In exchange for exemptions received, each project was required to make PILOT payments to the affected taxing jurisdictions to help offset the loss of tax revenues. However, we found no evidence that CPIDA officials identified and compared the costs of each project against the expected community benefits.

The Board Chairperson told us the prior Boards either did not perform CBAs for the five projects or did not make the CBA information available to them. Although the five projects with no CBAs were approved prior to June 15, 2016 and, therefore, CPIDA officials were not statutorily required to perform a CBA as part of the approval process, performing the CBA would have provided information officials needed to properly evaluate and be certain that the project estimates were realistic and beneficial to the community.

Board members provided us with the CBAs they performed for the remaining five projects to support their decisions to approve IDA benefits. We reviewed the CBAs and found them to be reasonable.

Without performing (or availability of) CBAs, we question whether the previous Boards had a sound basis to make their final determination of whether the projects were viable. Further, CPIDA officials cannot be certain whether the community will receive sufficient benefits in return for the assistance provided, and taxpayers have no assurance that the cost of providing assistance to these projects is an appropriate use of their money.

Project Agreements – Five projects did not include recapture provisions in their agreements. Instead, they had “Events of Default” agreements which did not include language to adequately protect the City (or taxing jurisdictions) from financial loss. The five projects combined received net exemptions totaling over \$15 million as of December 31, 2020 (Figure 1).

CPIDA officials did not have documentation to show whether they performed CBAs for five of the 10 projects we reviewed.

Figure 1: Projects Without CBAs and Recapture Provisions

Project Name	Exemptions	PILOT	Net Exemptions
400 Main, LLC	\$3,517,055	\$342,954	\$3,174,101
Eastman, Bixby Redevelopment Company, LLC	4,849,756	1,708,925	3,140,831
JM Development Group, LLC- Water Club	1,807,486	191,042	1,616,444
JM Development Group, LLC – Shadows & Grandview - Poughkeepsie Landing	4,482,127	2,462,517	2,019,610
Woodside Associates, LLP	6,428,259	1,203,177	5,225,082
Total	\$21,084,683	\$5,908,615	\$15,176,068

Although these projects were approved prior to June 15, 2016 and were not statutorily required to include recapture provisions in their agreements, best practices dictated that such provisions be included to allow CPIDA to recoup previously granted financial assistance if project goals were not met.

For the other five projects, one project was revised by resolution and did not require a recapture provision. The remaining four projects were approved after June 2016 and had recapture provisions included in their agreements as required. Without incorporating recapture provisions in agreements, the Board’s ability to take action – such as recouping previously granted financial assistance or prohibiting a company from reapplying for financial assistance – may be significantly diminished in the event of performance shortfalls, such as project goals were not met or other intended benefits were not realized. When CPIDA officials are not able to rescind and/or recover the financial assistance provided to approved projects that fall short of meeting their stated goals, taxpayers in the community subsidize the financial incentives for these projects without receiving the expected benefits.

Transparency – We requested the UTEPs the CPIDA used to approve the 10 projects we examined (See Appendix A). The current Board members provided us with UTEPs approved between 2016 and 2018 used for four projects, which were in compliance with GML Section 874 requirements. However, the Board did not have UTEPs for six projects (Figure 2). Board members told us the six projects were approved by previous CPIDA Boards prior to 2016, and the UTEPs were missing and unavailable for our review.

Figure 2: Projects With No UTEP or Public Hearing Notices

Project Name	Total Exemptions
Woodside Associates, LLP	\$6,428,259
Eastman, Bixby Redevelopment Company, LLC	4,849,756
JM Development Group, LLC – Shadows & Grandview-Poughkeepsie Landing	4,482,127
One Dutchess (Phase I) ^a	Unknown
400 Main, LLC	3,517,055
JM Development Group, LLC- Water Club	1,807,486
Total	\$21,084,683
a) CPIDA officials could not provide us with details for this project’s exemptions.	

These six projects received between \$1.8 million and over \$6.4 million in tax exemptions, totaling more than \$21 million, as of December 31, 2020.

In addition, the Board did not have resolutions that adopted the UTEPs used to approve projects between 2016 through 2018. The current CPIDA officials told us that they could not obtain the UTEPs and other project information they requested from City officials because the City did not maintain this information. This information must be available and retained so that current and future boards are able to adequately ensure that project owners are maintaining the standards and guidelines under which they were approved. Further, the PILOT agreement for one project (Woodside Associates, LLP) indicated that the CPIDA deviated from the UTEP. The current Board members told us the information for this deviation was not available when they were appointed. Without the UTEPs and deviation information, current and future boards will not have detailed guidelines to use to evaluate the tax exemptions the project owners received and ensure compliance.

CPIDA officials also did not have public hearing notices on file for the six projects above. The Board Chairperson stated that the prior City administration and Board did not make the information available to the subsequent Board. In addition, four of these projects had hearing notices; however, CPIDA officials did not provide evidence that two were published in the newspaper that gave 10 days' notice. As a result, the public may not have had the opportunity to review and comment on the proposed (now approved) projects and how they would affect the community.

How Should IDA Projects Be Properly Monitored?

Annually, IDA officials must assess the progress of each project which continues to receive financial assistance or is otherwise active toward achieving the investment, job retention or creation or other objectives of the project listed in the project application and approved in the project agreement, and provide this assessment to the board. The board's assessment of each project's progress must be maintained on the IDA's website while the project continues to receive financial assistance.

Projects approved after June 15, 2016 are required, per their project agreement, to annually file duplicate copies of any and all statements filed with New York State agencies with the IDA, which includes a quarterly wage report (Form NYS-45 Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return) and an annual sales and use tax exemptions claimed report (Form ST-340) as of December 31.

Each year, IDAs must annually report and certify certain information for approved projects, including, but not limited to, the types of projects, applicant information, granted tax exemptions, PILOTs and project employment figures to the Authorities Budget Office (ABO) and OSC. Reported information should be supported by

source documents, including quarterly wage reports and/or sales and use tax claim forms. Before the IDA submits its annual report, the board and IDA officials should review the information to ensure its accuracy. CPIDA hired a consultant to handle its day-to-day operations, including reporting.

The Board Did Not Properly Monitor Projects

The Board did not develop a formal process to adequately oversee and monitor CPIDA-sponsored projects. We found no documentation that CPIDA officials conducted formal periodic or annual assessments or site visits to determine whether projects were meeting their employment projections or other goals stated on their applications. In addition, CPIDA did not obtain information on PILOT payments on a periodic or annual basis from City officials for review. Therefore, CPIDA officials had no ability to determine whether project owners were making correct and timely payments as stated in their respective agreements. Without such reviews, the Board could not consider whether it should recapture benefits, where applicable, if businesses did not meet their employment goals and other obligations.

The Board Chairperson told us that CPIDA officials informally talk to project owners on an ad hoc basis. The Board Chairperson also stated that they can walk to or drive by projects that are in the process of being completed to see how much work is completed. However, walking or driving by a project site would not provide an adequate assessment of the amount of work completed. The Board Chairperson also indicated that, while there is no formal documentation, they are actively in contact with developers over the phone, or by site view or site visits. Also, CPIDA Board members told us that it was their understanding that the consultant verifies the information it collects from project owners. Board members indicated that there was no formal process in place for City officials to share or provide periodic PILOT information with CPIDA unless they specifically request it. CPIDA officials did not request this information because they felt it was the City's responsibility to handle the PILOT payments. Therefore, they did not think it was necessary to request the information or develop a process to monitor.

While CPIDA officials believe the procedures they have in place adequately provide them the needed information to monitor projects effectively, the audit findings indicate they are not effective. Without effective monitoring, the CPIDA will not be able to identify and address project shortfalls and may not be able to determine whether the projects have achieved the desired benefits. We identified the following areas in which the Board can improve its monitoring efforts.

Annual Questionnaire – According to CPIDA officials, the consultant ensures that the project owners submit project information by requesting information from project owners through an annual questionnaire. The questionnaire asks for information from forms, such as the ST-340-Sales Tax, NYS-45 and NYS-45-ATT

The Board did not develop a formal process to adequately oversee and monitor CPIDA-sponsored projects.

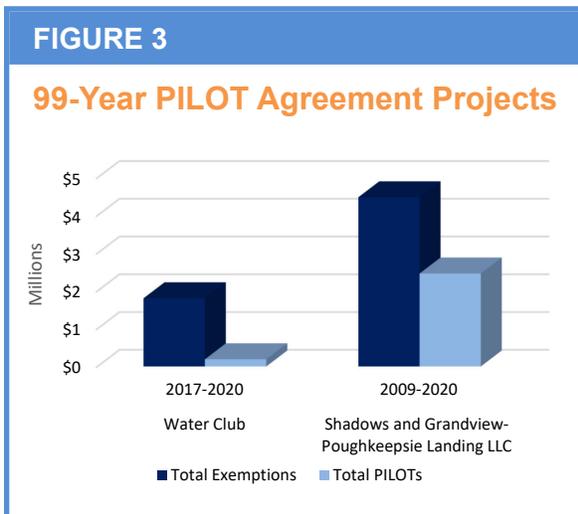
employment information, mortgage recording tax, project, insurance and bond information. There is also a section on the questionnaire that asks for additional information if the project is reporting for the first time, as well as if there are any outstanding PILOT payments. The questionnaire is signed and initialed by the project owner or representative to certify that the information is true, accurate and complete.

The accuracy of the information included on the questionnaire is on the honor system. CPIDA officials do not verify the information by obtaining or reviewing the documents supporting the information provided. As a result, it is not effectively being used as a tool to be relied on to monitor projects and assess whether progress is adequate.

PILOT Agreements – We reviewed PILOT agreements for the 10 projects. Two projects, the Water Club and Shadows and Grandview - Poughkeepsie Landing, both owned by JM Development, LLC each have a 99-year PILOT agreement. While the agreements state that PILOT amounts are to be calculated based upon 2 percent of reported gross (not audited) revenues, the agreements do not include provisions or language that allow the CPIDA to obtain and verify the documentation to support the project owner’s self-calculated and reported gross revenue figures. As a result, CPIDA officials cannot assure taxpayers that these entities paid or continue to pay the correct PILOT amounts to the affected taxing jurisdictions.

We obtained and reviewed the Public Authorities Reporting Information System (PARIS) reports which include information self-reported by the CPIDA.² The reports showed that from 2017 through 2020, the Water Club received about \$1.8 million in total tax exemptions and made \$191,042 in total PILOTs. Also, the reports showed that from 2009 through 2020 the Shadows and Grandview – Poughkeepsie Landing, received \$4 million in total tax exemptions and made \$2.4 million in PILOTs. Figure 3 shows the total exemptions and PILOT amounts for the Water Club from 2017 through

...CPIDA officials cannot assure taxpayers that these entities paid or continue to pay the correct PILOT amounts to the affected taxing jurisdictions.



² The ABO website states that it “is not responsible for verifying the accuracy or reasonableness of the data reported, and does not verify or confirm the accuracy of this data. Specific details for any project would need to be clarified by the reporting IDA.”

2020 and for Shadows and Grandview - Poughkeepsie Landing from 2009 through 2020.

Approving projects and entering into PILOT agreements that do not seek to protect and balance the interest of businesses and communities alike ultimately puts unjustified financial burden on taxpayers. The Board Chairperson stated that their counsel told them that the only way to verify the revenue is if one of the taxing jurisdictions requests to review the revenue information. However, as of the end of our field work, CPIDA officials have not pursued this matter any further.

The other projects have PILOT agreements that range between 10 and 50 years. One project (One Dutchess) did not receive a tax exemption through CPIDA. As illustrated in Figure 4, the previous CPIDA Boards approved projects with much longer exemption years than the Board in place during our audit period.

Figure 4: Tax Exemption Years Granted

Project Name	Project Approval Year	Tax Exemption Years Granted	CPIDA Board That Approved Project ^a
JM Development Group, LLC (Shadows and Grandview-Poughkeepsie Landing)	2004	99	Previous
JM Development Group, LLC (Water Club)	2009	99	Previous
400 Main, LLC	2003	50	Previous
Eastman, Bixby Redevelopment Company, LLC	2000	30	Previous
Woodside Associates, LLP	1999	25	Previous
Opportunity Poughkeepsie	2019	12	Current
387- 397 Main Street	2019	10	Current
CNN Spruce	2019	10	Current
Maple Street of Dutchess	2018	10	Current
One Dutchess	2017/2020	0	Current

a) Previous represents CPIDA Board before 2018 and Current represents CPIDA Board 2018 to 2021 or end of fieldwork.

While the number of tax exemption years granted for projects approved by the current Board in 2018 and after was 12 or less, the projects approved by the previous Boards prior to 2018 were granted generous tax exemption years that ranged between 25 and 99 years. The previous Boards granted long-term exemptions to projects and did not provide future Boards with documentation, such as CBAs, to demonstrate that the decision to provide the exemptions was prudent and did not cause potential adverse financial impact to the community.

In addition, the two projects with 99 exemption years entered into lease agreements with the CPIDA. However, CPIDA officials were unable to provide us with the actual lease agreements to review. The Board Chairperson stated that the previous Board only provided them the PILOT agreements for these two projects. These records are necessary to provide information on Board decisions and the terms of the lease agreements. The lack of complete records prevented us from determining whether the entities were in full compliance with the CPIDA agreements. The lack of these important documents also prevented CPIDA officials from adequately and effectively monitoring the projects to ensure compliance with agreement terms and conditions.

With the substantial length of PILOT agreements and the inability to verify revenue information, the CPIDA cannot be sure that the benefits to the community outweigh the cost of the exemptions. In addition, in the absence of lease agreements, the CPIDA cannot be certain of project commitments and legal obligations to CPIDA and the City.

PILOT Payments – Pursuant to GML Section 874, when payments are delinquent, under an agreement, a late payment should be assessed. The penalty is:

- 5 percent of the amount due for the first month, and
- 1 percent penalty on the total amount shall accrue each month thereafter.

CPIDA officials and the City’s Finance Department are responsible for ensuring that PILOT amounts are billed, payments are made, and that accurate information is maintained to capture payment information for each project billed.

We obtained and reviewed payment information from the City Finance Department and found that five PILOTs were made late during our audit period, penalties were not assessed, and payment information maintained by the City Finance Department was not accurate. As shown in Figure 5, three projects with payments due totaling \$511,265, were made between 38 and 64 days late and over \$30,000 of late fees were not assessed.

Figure 5: Late PILOT Payments

Payment Year	Project Name	Amount Due	Days Late	Late Fee Not Assessed
2017	JM Development- Water Club	\$1,163.67	61	\$69.82
2018	Woodside Associates	121,753.79	38	7,305.23
2019	Woodside Associates	123,684.81	64	7,421.09
2019	Eastman Bixby	140,978.00	40	8,458.68
2020	Woodside Associates	123,684.81	64	7,421.09
Total		\$511,265.08		\$30,675.91

CPIDA officials did not ensure that the three projects that paid 38 to 64 days late were assessed late payment penalties, totaling \$30,676, because PILOT payments were not being monitored properly. For example, for three consecutive years, Woodside Associates made its PILOT payments, totaling \$369,123, between 38 to 64 days late. However, the City Finance Department did not assess late fees, totaling \$22,147. CPIDA officials were not aware that late fees should be assessed. In addition, Eastman Bixby's 2019 PILOT payment of \$140,978 was made 40 days late and should have been assessed a late fee in the amount of \$8,459, but was not.

We also reviewed PILOT payment information and found that, in 2019, three payments totaling \$168,405 reported on the PARIS report were not captured or reported in the City's PILOT payment records. These payments were billed and collected by the City; therefore, the amounts and payment dates, along with other information, should have been documented accurately in the City's records. This occurred because CPIDA officials are not requesting and reviewing PILOT payment information regularly to monitor and ensure accurate and complete record of payments. Instead, they rely on the City to do so, which has not happened.

CPIDA Board members told us they were not aware of the requirement that penalties should have been assessed. The failure to share accurate information, ensure timely PILOT payments and assess penalties have resulted in taxing jurisdictions not receiving the correct PILOT amounts to which they were entitled.

Employment Projections – CPIDA officials did not adequately monitor projects to ensure they met or made reasonable progress toward their employment projections. We obtained and reviewed the compliance data each project owner submitted to the CPIDA's consultant to comply with the annual reporting requirements for all 10 projects reviewed. Five projects, including the two projects with 99-year tax exemption agreements, did not have applications on file. The missing applications contained original number of jobs that the project owners promised that they would create and/or retain as one of the categories for approval, if given the financial assistance. Therefore, we could not compare the original jobs information and did not have any documentation to determine whether the project owners were meeting their performance goals. As a result, we compared six of the 10 project applications to the CPIDA PARIS report for calendar years 2019 and 2020. Three projects³ were not required to meet their job creation and retention goals. In addition, the project job creation and/or retention estimates for the other three projects totaled 39.5 jobs; however, according to the PARIS reports, project owners self-reported they created/retained a total of 155 jobs in 2019, a surplus of 115.5 jobs, and a total of 25 jobs in 2020, a shortfall of 14.5 jobs (Figure 6).

CPIDA officials did not adequately monitor projects to ensure they met or made reasonable progress toward their employment projections.

3 387-397 Main, CNN Spruce and Opportunity Poughkeepsie

Figure 6: Job Creation and Retention for 2019 and 2020

Project Name	Year Approved	Jobs Promised*	2019		2020	
			Jobs Created**	Variance***	Jobs Created**	Variance***
Maple Street of Dutchess	2018	1.5	2	0.5	0	-1.5
One Dutchess Apartments (Dutton)	2017	8	7	-1	6	-2
One Dutchess Phase II	2020					
Woodside Associates, LLP	1999	30	146	116	19	-11
Total		39.5	155	115.5	25	-14.5

Source of Data
 *Project Application
 **PARIS
 *** Variance calculation – Jobs Created less Jobs Promised

We reviewed 2020 project applications and compliance data forms and found no issues. However, when we compared the project applications to the information on the 2019 compliance data forms project owners submitted for the CPIDA consultant to compile and send to the ABO, we found that the number of jobs promised did not agree with the numbers reported on the PARIS reports. For example, we found the following discrepancies (Figure 7):

Figure 7: 2019 Compliance Data/ PARIS Job Information Comparison

Project Name	Jobs Promised (Application)	2019 Compliance Job Totals	2019 PARIS Report Job Totals	Difference
Maple Street of Dutchess	1.5	1.5	2	-0.5
Woodside Associates, LLP	30	29.5	146	-116.5
Total	31.5	31	148	-117

- Maple Street of Dutchess – The application promised to create 1.5 jobs. However, the documentation provided for the 2019 compliance data form only supported 1.5 jobs as being created; not the two jobs that were reported in PARIS as created. The additional 0.5 job reported in PARIS was for a part-time consultant and should not have been added in the total.
- Woodside Associates – The application promised to create 30 jobs but, per the submitted forms, 29.5 jobs were created, which is a shortfall of .5 jobs. Further, the PARIS report showed 146 jobs were created, which was an overage of 116.5 jobs reported versus created. Also, the project owner did

not differentiate between retained and created jobs on the application. In addition, the annual compliance data form was not certified to attest that all the information submitted was true.

The Board relies on the CPIDA consultant to compile the job information project owners submit and report the information to the ABO. However, it does not have an adequate process for reviewing, verifying and reporting the job numbers. Without project applications with promised job creation/retention information to monitor projects and verify reported data, CPIDA officials cannot be sure that the projects are meeting stated goals for job creation and retention. As a result, they may be providing tax abatements to businesses that are not providing expected benefits to the community.

Annual PARIS Report – We obtained and reviewed the PARIS reports for calendar years 2019 and 2020 and found additional inaccuracies or inconsistencies with the information reported. For example;

- CNN Spruce – Benefited amounts⁴ were reported as \$881,000 and \$7,881,000 in 2019 and 2020, respectively. This amount should not have changed from year to year, unless the project agreement was amended. However, we did not find any documentation that this project was amended.
- Maple Street of Dutchess – The total exemptions for 2019 were \$129,972, but the amount decreased by \$123,094 to \$6,878 in 2020 without explanation. Also, the 2020 report showed that the project owner made a PILOT payment of \$30,000 in 2020, resulting in a net exemption of (\$23,122), which meant that the project owner paid more than the total exemption in 2020.
- One Dutchess – Project documents showed that this is not a lease project; however, lease payments were reported on the PARIS reports for 2019 and 2020. Also, the project did not have a real property exemption or a related PILOT payment requirement, but the PARIS reports for 2019 and 2020 showed real property exemptions of \$542,436 and PILOT payments of \$324,208 made for both years.

The CPIDA depended solely on its consultant to collect project information from project owners and report to appropriate State agencies. We found no evidence that CPIDA officials provided adequate oversight of the services provided by the consultant to ensure that information and documentation collected from project owners were properly reviewed and verified for completeness and accuracy before required reports (PARIS) were generated and submitted. The Board

⁴ This is the total project amount less any project costs that will not be affected by IDA benefits. For example, items to subtract include project costs that are not sales taxable (e.g., services such as legal, architectural, engineering) or costs that do not result in an increase in the real property tax benefit.

Chairperson stated that they met with the consultant to review the report prior to the consultant filing the information with the ABO. However, CPIDA officials did not have a proper process in place to verify and compare information submitted and entered on the compliance and PARIS reports prior to submission to ensure accuracy and agreement between the reports and related documentation.

Because CPIDA officials are not ensuring the information in the annual PARIS reports are reflective of the various project documents, there is a risk that the PARIS reports are inaccurate. As a result, inaccurate reporting reduces transparency by providing misleading information to the Board, taxpayers and other interested parties.

What Do We Recommend?

CPIDA officials should:

1. Make an effort to obtain the missing UTEPs, applications and lease agreements, and retain them for future Boards.
2. Ensure that CBAs are performed for all projects to help ensure that CPIDA officials have all the information they need to make appropriate and informed project approval decisions.
3. Ensure agreements adequately provide for the suspension, discontinuance and recapture of financial assistance benefits provided to each project, if necessary.
4. Ensure public hearing notices are adopted and published in compliance with GML.
5. Develop formal procedures to monitor projects' progress yearly in compliance with GML and document findings in writing.
6. Work with the City and the other taxing jurisdictions to request the project owners' financial information to review to ensure that they are receiving the proper PILOT amounts.
7. Ensure the City provides the Board with periodic PILOT payment reports and that penalties are assessed for payments made 30 or more days late.
8. Ensure that PARIS annual reporting information submitted is reviewed and verified to ensure accuracy.

Appendix A: Project Information

Figure 8: Project Details

Project Name	Fiscal Years Reported	Total Project Amount
One Dutchess Apartments (Dutton) (2017-2020) and One Dutchess Phase II (2020)	2017-2020	\$100,972,068
JM Development Group, LLC- Water Club	2017-2020	23,500,000
Woodside Associates, LLP	2009-2020	16,750,000
Opportunity Poughkeepsie	2020	12,543,291
400 Main. LLC	2009-2020	11,777,702
JM Development Group, LLC- Shadows and Grandview-Poughkeepsie Landing	2009-2020	8,800,000
Eastman, Bixby Redevelopment Company, LLC	2009-2020	8,500,000
CNN Spruce	2019-2020	8,161,000
Maple Street of Dutchess	2018-2020	5,670,725
387- 397 Main Street	2020	4,824,806
Total		\$201,499,592

Appendix B: Response From CPIDA Officials

City of Poughkeepsie Industrial Development Agency
PO Box 4971
Poughkeepsie, New York. 12601

June 8, 2022

Poughkeepsie Industrial Development Agency
62 Civic Center Plaza
Poughkeepsie, New York. 12601

State of New York
Office of the State Comptroller
Newburgh Regional Office
33 Airport Center Drive
Suite 103
New Windsor, NY. 12553

Re: City of Poughkeepsie Industrial Development Agency the ("Agency") Project Approval and Monitoring Report of Examination 2021M-168

This letter is in response to the above referenced draft findings of the above examination. This document will serve as our response to the draft findings. The Corrective Action Plan ("CAP") for the recommendations noted in the draft findings report, will be submitted within the required 90 days.

A threshold matter, I would like to thank the Office of the State Comptroller for approving the requested extension to respond to the draft. Further, and perhaps more importantly, I would like to express my gratitude to the Comptroller's office for its detailed and comprehensive assessment of the Agency's past performance in connection with the benefits that have been provided. After speaking with my fellow Board members, we view the Comptroller Office's recommendations as a vital resource to this recently reconstituted Board which will assist us in carrying out our duties for the betterment of the City of Poughkeepsie.

As per our telephone exit conference on Friday May 13, 2022; the Comptroller's Office is aware that I am the new Chair, and the members of the board are also new except for Mr. Randall Johnson. The new board has had the opportunity to review the draft findings. As a result of our review, I offer the following responses to the recommendations:

- 1) The board agrees, understands and will adhere to full compliance with all document retention requirements. The Chair has contacted both City officials and previous Counsel to the Agency to obtain the missing documents and once they are received, they will be retained for future boards for reference and consideration.

City of Poughkeepsie Industrial Development Agency
PO Box 4971
Poughkeepsie, New York. 12601

- 2) The board agrees with the recommendation in connection with Cost Benefit Analyses (CBA's) for all future applications as they come to our attention. The Agency has retained the service of an independent outside corporation to have all projects be vetted for the benefit of the taxpayer. In fact, since June 16, 2016, all applications have been the subject of a stringent CBA process.
- 3) The board agrees with the recommendation for the provision of suspension, discontinuance and recapture of benefits provided to each project, if necessary. All agreements since June 16, 2016, contain measurable provisions for the suspension, discontinuance and recapture of financial benefits for each project.
- 4) The board agrees with the recommendation for the conducting and notice requirements of public hearings as required by the General Municipal Law. We will ensure that all public hearing notices are adopted and published in compliance with GML.
- 5) The board agrees with this recommendation and pursuant to the Comptroller's Office CAP requirement, the board will develop a procedure to comply with this recommendation. The board will submit it within the required ninety-day time frame.
- 6) The board agrees with this recommendation and pursuant to the Comptroller's Office CAP requirement, the board will develop a procedure to request, receive and review information from the city to ensure we are receiving proper PILOT amounts. The board will submit this procedure to the Comptroller's Office in accordance with CAP within the required ninety-day time period.
- 7) The Chair will contact the City Assessor to request reports to ensure penalties are assessed for the benefit of the taxpayers for PILOT payments made more than 30 days late. This procedure will be reported to the Comptroller's Office in accordance with CAP within the ninety-day time period.
- 8) The current board agrees with this recommendation and will ensure that the PARIS report is accurate when reported. This review and verification procedure will be provided to the Comptroller's Office in accordance with CAP within the ninety-day time period.

City of Poughkeepsie Industrial Development Agency
PO Box 4971
Poughkeepsie, New York. 12601

I trust this letter has responded to all the recommendations.

Sincerely,

Rose Graziano-Moffett
Chair, IDA

Appendix C: Audit Methodology and Standards

This audit was conducted pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed CPIDA officials and reviewed the respective laws that are applicable in establishing CPIDA and setting the requirements for normal operations.
- We reviewed Board resolutions and policies to determine whether the Board developed and adopted a UTEP.
- We interviewed CPIDA officials and Board members and reviewed CPIDA's UTEP, policies and Board minutes to gain an understanding of the project approval process.
- We reviewed all 10 CPIDA active and approved projects during the audit period.
- We reviewed project documentation containing applications and supporting documentation, resolutions, cost-benefit analyses, lease agreements and PILOT agreements.
- We reviewed documentation to determine whether all public meetings were held for the project before approval and meeting notices were advertised at least 10 days before meetings.
- We reviewed payment information from the City of Poughkeepsie's Finance Department to determine whether PILOT payments were made in a timely manner and penalties were assessed after 30 days or more. We calculated penalties for projects that paid late according to GML.
- We reviewed NYS-45 forms and supporting compliance documentation and compared them to original applications and CPIDA PARIS reports to determine whether the projects' job creation and retention goals were met for 2017 through 2020.
- We reviewed CPIDA PARIS reports and compared them to previous amounts to determine whether amounts changed or were incorrectly submitted.
- We calculated the total exemptions and net exemptions for each project from 2017 through 2020. We compared yearly exemptions and net exemptions to what was reported on the CPIDA PARIS report for 2017 through 2020.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/local-government

Local Government and School Accountability Help Line: (866) 321-8503

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