

City of Albany Industrial Development Agency

21 Lodge Street
Albany, New York 12207
Telephone: (518) 434-2532
Fax: (518) 434-9846

Tracy Metzger, *Chair*
Susan Pado, *Vice Chair*
Darius Shahinfar, *Treasurer*
C. Anthony Owens, *Secretary*
Lee Eck
Dominick Calsolaro
Robert Schofield

Sarah Reginelli, *Chief Executive Officer*
Mark Opalka, *Chief Financial Officer*
John Reilly, *Agency Counsel*

To: Anthony Owens
Darius Shahinfar
Susan Pado
Tracy Metzger
Lee Eck

Cc: Robert Schofield
Dominick Calsolaro

Sarah Reginelli
Mark Opalka
John Reilly
Joe Scott
Brad Chevalier
Sabina Mora
Andy Corcione
Chantel Burnash

Date: April 8, 2016

IDA FINANCE COMMITTEE AGENDA

PLEASE NOTE THAT A PUBLIC HEARING CONCERNING THE FOLLOWING PROJECT(S) WILL BE HELD AT
12:00pm on Wednesday, April 13th, 2016 at 21 Lodge St, Albany, NY 12207

99 Pine Street of Albany, LLC.
1385 Washington Avenue Property Associates, LLC.

A meeting of the Finance Committee of the City of Albany Industrial Development Agency will be held on **Wednesday, April 13th at 12:15 PM** at 21 Lodge Street, Albany, NY 12207 (Large Conference Room).

Roll Call

Reading of Minutes of the Finance Committee Meeting of March 9, 2016

Approval of Minutes of the Finance Committee Meeting of March 9, 2016

Report of Chief Financial Officer

A. Quarterly Budget Report

Unfinished Business

- A. 1385 Washington Avenue Property Associates, LLC (1385 Washington Ave)
 - Positive/Negative Recommendation to Board
- B. 99 Pine Street of Albany, LLC (99 Pine Street)
 - Positive/Negative Recommendation to Board

New Business

-None

Other Business

Adjournment

The next regularly scheduled Finance Committee meeting will be held Wednesday, May 11, 2016 at 21 Lodge Street, Albany, NY. Please check the website www.albanyida.com for updated meeting information.

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IDA MINUTES OF FINANCE COMMITTEE MEETING Wednesday, March 9, 2016

Attending: C. Anthony Owens, Tracy Metzger, Susan Pedo, and Darius Shahinfar

Absent: Lee Eck, John Reilly

Also Present: Dominick Calsolaro, Robert Schofield, Joseph Scott, Sarah Reginelli, Brad Chevalier, Mark Opalka, Sabina Mora, Andy Corcione, Mike Bohne, and Chantel Burnash

Chair C. Anthony Owens called the Finance Committee meeting of the IDA to order at 12:15 PM.

Roll Call

Chair C. Anthony Owens reported that all Committee members were present, except Lee Eck.

Reading of Minutes of the January 21, 2016 Finance Committee Meeting

Since the minutes of the previous meeting had been distributed to Committee members in advance for review, Chair C. Anthony Owens made a proposal to dispense with the reading of the minutes.

Approval of Minutes of the January 21, 2016 Finance Committee Meeting

Chair C. Anthony Owens proposed to approve the minutes of the Finance Committee meeting of January 21, 2016. Susan Pedo moved, seconded by Tracy Metzger, to accept the minutes as presented. The Members voted unanimously in favor and the motion carried.

Unfinished Business

None.

New Business

1385 Washington Avenue Property Associates, LLC – Project Introduction

Staff advised the Committee that 1385 Washington Avenue Property Associates, LLC seeks assistance from the Agency in the form of sales tax exemption, mortgage tax exemption, and real property tax exemption. Donald Zee from 1385 Washington Avenue Property Associates, LLC was present to

provide an introduction of the potential project at 1385 Washington Avenue (University Suites project). The proposed project is a for-profit student-housing complex. The complex would transform an older property into a modern, 4-story student-housing complex consisting of approximately 322 beds over a 146-space parking garage. The amenities will include a fitness center, meeting rooms and conference rooms. The Applicant is under contract with the leaseholders of the Red Carpet Inn and plan on demolishing that structure. Once the complex is complete and operational, the Applicant expects to hire seven full time employees. The Applicant is also under contract with the Hilton Garden Inn for a land swap, to acquire extra parking spaces. The Applicant stated that the student leases would be for 12 months. There would be one entrance to the building, which would require a key fob, to control accesses to the building. There would also be a security desk, which will be staffed 24 hours a day. The Applicant expects occupancy to occur in August 2017.

A motion to move the project to the next full Board meeting with a positive recommendation for consideration of a public hearing resolution was made by Tracy Metzger and seconded by Darius Shahinfar. A vote being taken, the motion passed unanimously.

99 Pine Street of Albany, LLC – Project Introduction

Staff advised the Committee that 99 Pine Street of Albany, LLC seeks assistance from the Agency in the form of sales tax exemption and mortgage tax exemption. The Applicant will use the 485a abatement program available through the city. Seth Meltzer from 99 Pine Street of Albany, LLC was present to provide an introduction of the potential project at 99 Pine Street. 99 Pine Street of Albany, LLC was formed for the purposes of acquiring the Capital Center and redeveloping and operating the property as a mixed-use building by adding 38 residential units on floors 3-5. The property is comprised of six separate buildings that have been combined internally over the past 50 years. The Applicant is under contract on the building. The amenities would include a fitness room and storage units. Staff informed the Committee that the Applicant has a request for a permanent loan and a construction loan with Capitalize Albany Corporation. The Committee expressed their appreciation to the Applicant for taking on this project and discussed the importance of the location of this building.

A motion to move the project to the next full Board meeting with a positive recommendation for consideration of a public hearing resolution was made by Tracy Metzger and seconded by Darius Shahinfar. Susan Pedo abstained from the vote. A vote being taken, the resolution passed.

Other Business

Staff informed the Committee that the City of Albany's new tentative assessment roll was released. Staff has asked W-ZHA LLC, the consultant for development and economic advisory services, to temporarily halt existing work, as the focus has shifted to the Assessor's methods of the new assessment rolls. The new assessments may require Staff and the consultant to re-design and re-program their analysis.

There being no further business, Chair C. Anthony Owens adjourned the meeting at 1:03 PM.

Respectfully submitted,

C. Anthony Owens, Secretary

**City of Albany Industrial Development Agency
Statement of Revenue and Expenses to Budget
For the Quarter Ended March 31, 2016**

	1st Quarter Actual	1st Quarter Budget	Variance	Annual Budget
Revenues:				
Agency Fees	\$ 128,290	\$ 123,500	\$ 4,790	\$ 839,783
Interest	<u>2,933</u>	<u>125</u>	<u>2,808</u> ⁽¹⁾	<u>499</u>
Total Revenues	<u>131,223</u>	<u>123,625</u>	<u>7,598</u>	<u>840,282</u>
Expenses:				
Professional Service Contracts	107,646	94,146	13,500 ⁽²⁾	407,582
Sub-lease AHCC	-	-	-	75,000
Economic Development Support	62,500	62,500	-	350,000
Other Miscellaneous	850	1,250	(400)	6,000
Insurance	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,700</u>
Total Expenses	<u>170,996</u>	<u>157,896</u>	<u>13,100</u>	<u>840,282</u>
Excess of Revenues over expenses	<u><u>\$ (39,773)</u></u>	<u><u>\$ (34,271)</u></u>	<u><u>\$ (5,502)</u></u>	<u><u>\$ -</u></u>

(1) Variance attributable to the agency changing banking institution in late 2015

(2) Variance attributable to the Board resolution dated January 28, 2016 approving a contract with W-ZHA, Inc. for development and advisory services.

TO: City of Albany Industrial Development Finance Committee

FROM: City of Albany Industrial Development Agency Staff

RE: 1385 Washington Avenue Properties, LLC - IDA Application Summary

DATE: April 8, 2016

Staff Notes:

This project summary is in response to the request for financial assistance which was formally introduced at the March 9th, 2016 Finance Committee meeting. The Agency Board considered and approved a public hearing resolution on March 17th 2016. The public hearing is scheduled for April 13th, 2016. Please note this project summary will continue to be updated as the project progresses through staff review and Agency consideration.

Applicant: 1385 Washington Avenue Properties, LLC

Managing Members (% of Ownership): Jon Grant 45.0%; Harvey Blonder 27.5%; Clifford Mendelson 13.75%; Gregg Wallace 13.75%

Project Location: 1385 Washington Avenue

Project Description: The project consists of the demolition of the existing Red Carpet Inn (+/- 50,000 SF) and the construction of an approximate 101-unit (322 bed) for-profit student housing complex. The +/- 142,000 SF building will be constructed over a partially-underground parking garage of approximately +/- 48,000 SF with approximately 146 parking spaces directly across from the SUNY Albany campus. Inclusive of surface parking, there will be +/- 180 spaces. The rooms will be configured between 1 and 4 BDRM/BA combinations and will share common room space and a kitchen area. The units will be fully furnished and marketed to students, staff and faculty attending local universities. Further amenities include an office area, fitness center, clubhouse and courtyard area.

Estimated Project Cost: \$30,535,000 (estimated amount spent \$357,000)

Type of Financing: Straight Lease

Amount of Bonds Requested: None

Estimated Total Purchases Exempt from Sales Tax: \$10,250,000

Estimated Total Mortgage Amount: \$21,375,000

Current Total Assessment: \$1,000,000 (Per City of Albany Commissioner of Assessment and Taxation and on the 2016 Tentative Assessment Roll). The PILOT base assessment will remain at the 2015 Final Assessment Roll value of \$1,500,000.

Estimated Improved Total Assessment: \$9,402,400 (Per City of Albany Commissioner of Assessment and Taxation)

Requested PILOT: The proposal entails the Applicant entering into a 7 year PILOT agreement with the IDA. Under the terms of the Proposed Pilot Agreement, the Applicant will pay (A) a base payment in lieu of tax payment equal to one hundred percent (100%) of the normal taxes due on the Land and the Facility (fixed at a base amount equal to \$1,500,000), and (B) an additional amount based on the increase in assessed value of the Project Facility (such increase in the assessed value due to the undertaking of the Project shall be referred to as the “Improvements”), such increased amount to be adjusted by the abatement schedule as described as follows:

Years After Project Completion	Amount of Abatement on Increased Assessment
1 - 2	100%
3	50%
4	40%
5	30%
6	20%
7	10%
8 and thereafter	0%

The Applicant has requested that the PILOT total assessment value be fixed for the term of the PILOT.

Estimated Value of Total PILOT Payments:

- Total PILOT Payments: \$1,996,201

Estimated Value of Tax Exemptions:

- NYS Sales and Compensating Use Tax: \$820,000
- Mortgage Recording Taxes: \$267,187
- Real Property Taxes: \$1,384,741 (Not a net present value)
- Other: N/A

Employment Impact:

- Projected Permanent: 7 jobs (full-time equivalents)
- Projected Retained: 0 jobs
- Projected Construction: 90 jobs

Strategic Initiatives:

- Albany 2030
 - Increase job opportunities for all residents.
 - Encourage investment in urban land and historic buildings for employment and housing.
 - Provide a variety of housing types to meet the varied needs of Albany’s households, including market, moderate and low income housing.

- Encourage diverse intergenerational housing. Diverse housing includes options for residents throughout different stages of life (e.g. students, couples, families with children, seniors) in the same neighborhood.

Planning Board Actions:

- Applicant appeared before the City of Albany Planning Board on March 24, 2016 and received Site Plan Approval (§375-33C) and Demolition Approval (§375-40).

Estimated IDA Fee

- Fee amount: \$305,350

Mission

- The purpose of the Industrial Development Agency is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities. The Agency aims to protect and promote the health of the inhabitants of the City of Albany by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial development.

MEMO

TO: City of Albany Industrial Development Agency Finance Committee

FROM: City of Albany Industrial Development Agency Staff

RE: 1385 Washington Avenue Property Associates, LLC. Application Update

DATE: April 8, 2016

The Applicant for the 1385 Washington Avenue Property Associates project has submitted an update to the project application in regard to the principal owners of the company. Further information is attached for your review.



April 4, 2016

Capitalize Albany Corporation
Attn: Sabina Mora, Sr. Economic Developer
21 Lodge St., Albany, NY 12207

Ref: PILOT Application – 1385 Washington Ave Property Associates LLC

Sabina,

Please find attached a detailed revision of the names, addresses and percentages of holding for the owners of this project. This revision should be made part of the application as an Addendum.

Thank you for your assistance with this matter. And please do not hesitate to contact me should you have any questions or need additional information.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Cheryl Henry-Fawcett', with a long, sweeping horizontal line extending to the right.

Cheryl Henry-Fawcett
Executive Project Manager

GSX Solutions LLC (the owner and sole member of 1385 Washington Ave Property Associates LLC) formed a partnership for the purpose of owning, managing and serving as the sole member of 1385 Washington Ave Property Associates LLC. This partnership is 1385 Washington Ave Partners LLC.

NAME	ADDRESS	PERCENTAGE OF HOLDING
Jon Grant	7 Old Solomon's Island Rd #200 Annapolis, MD 21403	45.%
Harvey Blonder	64 Old South River Rd, Edgewater, MD 21037	27.5%
Clifford Mendelson	4630 Montgomery Avenue #600 Bethesda, MD 20814	13.75%
Gregg Wallace	707 Montgomery Avenue, 2nd Floor Narberth, PA 19072	13.75%

Prepared April 4, 2016

TO: City of Albany Industrial Development Finance Committee

FROM: City of Albany Industrial Development Agency Staff

RE: 99 Pine Street of Albany, LLC - IDA Application Summary

DATE: April 8, 2016

Staff Notes:

This project summary is in response to the request for financial assistance by the Applicant which was formally introduced at the March 9th, 2016 Finance Committee meeting. The Agency Board considered and approved a public hearing resolution on March 17th 2016. The public hearing is scheduled for April 13th, 2016. Please note this project summary will continue to be updated as the project progresses through staff review and Agency consideration.

Applicant: 99 Pine Street of Albany, LLC.

Managing Members (% of Ownership): Christopher Maddalone and Seth Meltzer (70% and 30%, respectively).

Project Location: 55 North Pearl Street (aka 99 Pine Street)

Project Description: The project consists of the acquisition a commercial office building known as the Capital Center encompassing approximately 100,000 SF on the corner of N. Pearl and Pine Streets and the partial renovation/conversion the property's third, fourth and fifth floors into approximately 35 market-rate residential units totaling +/- 34,000 SF.

Estimated Project Cost: \$6,712,771 (estimated amount spent \$50,000)

Type of Financing: Straight Lease

Amount of Bonds Requested: None

Estimated Total Purchases Exempt from Sales Tax: \$1,621,789

Estimated Total Mortgage Amount: \$5,957,262

Current Total Assessment: \$1,500,000 (Per City of Albany Commissioner of Assessment and Taxation)

Estimated Improved Total Assessment: \$4,240,000 (Per City of Albany Commissioner of Assessment and Taxation)

Requested PILOT: N/A (Applicant is seeking as-of-right 485a through the City of Albany.)

Estimated Value of Total PILOT Payments:

- Total PILOT Payments: N/A

Estimated Value of Tax Exemptions:

- NYS Sales and Compensating Use Tax: \$129,743
- Mortgage Recording Taxes: \$74,466
- Real Property Taxes: N/A
- Other: N/A

Employment Impact:

- Projected Permanent: 0 jobs
- Projected Retained: 0 jobs
- Projected Construction: 15 jobs

Strategic Initiatives:

- Albany 2030
 - Increase job opportunities for all residents.
 - Encourage investment in urban land and historic buildings for employment and housing.
 - Provide a variety of housing types to meet the varied needs of Albany's households, including market, moderate and low income housing.
 - Encourage diverse intergenerational housing. Diverse housing includes options for residents throughout different stages of life (e.g. students, couples, families with children, seniors) in the same neighborhood.
- Impact Downtown Albany
 - Revitalization and diversification of downtown - adaptive reuse of underutilized or vacant buildings.
 - Establish a greater critical mass of housing downtown.
 - Encourage development proposals compatible with a mixed-use, pedestrian oriented setting.

Planning Board Actions:

- Applicant is scheduled to appear before the Planning Board on April 21st.

Estimated IDA Fee

- Fee amount: \$33,564

Mission

- The purpose of the Industrial Development Agency is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities. The Agency aims to protect and promote the health of the inhabitants of the City of Albany by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial development.

MEMO

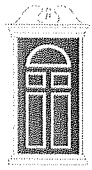
TO: City of Albany Industrial Development Agency Finance Committee

FROM: City of Albany Industrial Development Agency Staff

RE: 99 Pine Street of Albany, LLC. Application Update

DATE: April 8, 2016

The Applicant for the 99 Pine Street of Albany project has submitted an update to the project application in regard to the total project cost. Further information is attached for your review.



**MADDALONE
& ASSOCIATES, INC.**

Real Estate Development
& Property Management

April 8, 2016

To Whom it May Concern

The project cost for 99 Pine Street of Albany LLC. has increased from 6,239,893.00 to \$6,712,771.

The request for mortgage recording and sales/use tax has remained the same.

Seth Meltzer

Managing Member, 99 Pine Street of Albany LLC

SUMMARY OF PROJECT

Applicant: 99 PINE STREET OF ALBANY LLC

Contact Person: SETH MELTZER

Phone Number: 518-275-5699

Occupant: 99 PINE STREET OF ALBANY LLC

Project Location: 99 PINE STREET, ALBANY, NY 12207

Approximate Size of Project Site: 100,000 sq ft.

Description of Project: PURCHASE AND RENOVATE, TO DEVELOP
38 APARTMENTS IN THE BUILDING. WE WILL BE SEEKING
THE AS-OF-RIGHT-485a TAX EXEMPTION

Type of Project: ☐ Manufacturing ☐ Warehouse/Distribution
☐ Commercial ☐ Not-For-Profit
☒ Other-Specify : MIXED USE

Employment Impact: Existing Jobs: 0

New Jobs : 0

Project Cost: \$ 6,712,771.00

Type of Financing: ☐ Tax-Exempt ☐ Taxable ☒ Straight Lease

Amount of Bonds Requested: \$ 0.00

Estimated Value of Tax-Exemptions:

N.Y.S. Sales and Compensating Use Tax:	\$ 129,743.06
Mortgage Recording Taxes:	\$ 74,465.77
Real Property Tax Exemptions:	\$ 0
Other (please specify):	\$ 0

Provide estimates for the following:

Number of Full Time Employees at the Project Site before IDA Status: 0
Estimate of Jobs to be Created: 0

V. Project Cost and Financing Sources

- A. Anticipated Project Costs. State the costs reasonably necessary for the acquisition of the Project site, the construction of the proposed buildings and the acquisition and installation of any machinery and equipment necessary or convenient in connection therewith, and including any utilities, access roads or appurtenant facilities, using the following categories:

<u>Description of Cost</u>	<u>Amount</u>
Land	\$ <u>2,121,000.00</u>
Buildings	\$ <u>/</u>
Machinery and equipment costs	\$ <u>/</u>
Utilities, roads and appurtenant costs	\$ <u>/</u>
Architects and engineering fees	\$ <u>505,615.00</u>
Costs of Bond Issue (legal, financial and printing)	\$ _____
Construction loan fees and interest (if applicable)	\$ _____
Other (specify)	
<u>HARD DEVELOPMENT COSTS</u>	\$ <u>4,086,156.00</u>
_____	\$ _____
_____	\$ _____
TOTAL PROJECT COSTS	\$ 6,712,771.00 .

- B. Anticipated Project Financing Sources. State the sources reasonably necessary for the financing of the Project site, the construction of the proposed buildings and the acquisition and installation of any machinery and equipment necessary or convenient in connection therewith, and including any utilities, access roads or appurtenant facilities, using the following categories:

FIRST position LENDER TBD
CAPITALIZE ALBANY CORPORATION

<u>Description of Sources</u>	<u>Amount</u>
Private Sector Financing	\$ <u>5,557,262.00</u>
Public Sector	
Federal Programs	\$ _____
State Programs	\$ _____
Local Programs	\$ <u>400,000.00</u>
Applicant Equity	\$ <u>755,509.00</u>
Other (specify, e.g., tax credits)	
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL AMOUNT OF PROJECT FINANCING SOURCES	\$ <u>6,712,771.00</u>

- C. Have any of the above expenditures already been made by the applicant?
Yes X; No _____. If yes, indicate particulars.

\$ 50,000 DEPOSIT ON THE PROPERTY

- D. Amount of loan requested: \$ 5,957,262.00
Maturity requested: 30 years.

- E. Has a commitment for financing been received as of this application date, and if so, from whom?

Yes ____; No X. Institution Name: _____

Provide name and telephone number of the person we may contact.

Name: _____ Phone: _____

- F. The percentage of Project costs to be financed from public sector sources is estimated to equal the following: 6.4 %

TO: Project Applicants
 FROM: City of Albany Industrial Development Agency
 RE: Cost/Benefit Analysis

In order for the City of Albany Industrial Development Agency (the "Agency") to prepare a Cost/Benefit Analysis for a proposed project (the "Project"), the Applicant must answer the questions contained in this Project Questionnaire (the "Questionnaire") and complete the attached Schedules. This Questionnaire and the attached Schedule will provide information regarding various aspects of the Project, and the costs and benefits associated therewith.

This Questionnaire must be completed before we can finalize the Cost/Benefit Analysis, please complete this Questionnaire and forward it to us at your earliest convenience.

PROJECT QUESTIONNAIRE

1. Name of Project Beneficiary ("Company"):	99 PINE STREET OF ALBANY LLC	
2. Brief Identification of the Project:		
3. Estimated Amount of Project Benefits Sought:		
A. Amount of Bonds Sought:	\$	0
B. Value of Sales Tax Exemption Sought	\$	129,793.00
C. Value of Real Property Tax Exemption Sought	\$	0
D. Value of Mortgage Recording Tax Exemption Sought	\$	74,465.77

PROJECTED PROJECT INVESTMENT

A. Land-Related Costs	
1. Land acquisition	\$ 2,121,000.00
2. Site preparation	\$ 0
3. Landscaping	\$ 0
4. Utilities and infrastructure development	\$ 0
5. Access roads and parking development	\$ 0
6. Other land-related costs (describe)	\$ 0
B. Building-Related Costs	
1. Acquisition of existing structures	\$ 0
2. Renovation of existing structures	\$ 1,981,386.00
3. New construction costs	\$ 0
4. Electrical systems	\$ 196,852.00
5. Heating, ventilation and air conditioning	\$ 380,952.00
6. Plumbing	\$ 431,170.00
7. Other building-related costs (describe)	\$ 280,000.00

C.	Machinery and Equipment Costs	
1.	Production and process equipment	\$ 0
2.	Packaging equipment	\$ 0
3.	Warehousing equipment	\$ 0
4.	Installation costs for various equipment	\$ 0
5.	Other equipment-related costs (describe)	\$ 0
D.	Furniture and Fixture Costs	
1.	Office furniture	\$ 0
2.	Office equipment	\$ 0
3.	Computers	\$ 0
4.	Other furniture-related costs (describe)	\$ 0
E.	Working Capital Costs	
1.	Operation costs	\$ 0
2.	Production costs	\$ 0
3.	Raw materials	\$ 0
4.	Debt service	\$ 0
5.	Relocation costs	\$ 0
6.	Skills training	\$ 0
7.	Other working capital-related costs (describe)	\$ 0
F.	Professional Service Costs	
1.	Architecture and engineering	\$ 39,500.00
2.	Accounting/legal	\$ 207,900.00
3.	Other service-related costs (describe)	\$ 234,500.00
G.	Other Costs	
1.	Permits	\$ 51,715.00
2.	Legal Fees and Misc.	\$ 787,796
H.	Summary of Expenditures	
1.	Total Land-Related Costs	\$ 2,121,000.00
2.	Total Building-Related Costs	\$ 3,743,238
3.	Total Machinery and Equipment Costs	\$ 0
4.	Total Furniture and Fixture Costs	\$ 0
5.	Total Working Capital Costs	\$ 0
6.	Total Professional Service Costs	\$ 481,900.00
7.	Total Other Costs	\$ 366,633.00



IDA Procurement Review Competitive Selection Practices

April 4, 2016

GR-2016-01

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**Purpose and
Authority:**

The Authorities Budget Office (ABO) is authorized by Title 2 of the Public Authorities Law to review and analyze the operations, practices and reports of public authorities and to assess compliance with various provisions of Public Authorities Law and other relevant State statutes. The ABO undertook a review of select industrial development agencies (IDAs) to determine the extent competitive selection practices were used and the impact on the costs of audit and legal service contracts. Our review was conducted from December 2015 to February 2016.

**Background
Information:**

Public authorities are required to annually report on their procurement contracts, including the method followed in selecting each vendor. For 2014, not-for-profit corporations that are defined as local authorities reported that 73 percent of procurements were competitively selected; state authorities reported that 65 percent of procurements were competitively selected; local authorities reported that 57 percent of procurements were competitively selected; and IDAs reported that only 32 percent of procurements were competitively selected. This data also indicated that IDAs that did not competitively select contracts generally spend more for those contracts than the IDAs that used a competitive selection process.

Results:

Our review found that IDAs that use competitive selection procedures to select professional services such as audit and legal services generally incurred lower costs than those IDAs that did not seek competition. On average, IDAs that competitively selected audit services paid \$101 per active project, while those IDAs that did not seek competition for their audit contracts paid \$183 per active project, 81 percent more than those IDAs that used competitive selection methods.

While professional service contracts are generally not required to be competitively bid, there are other methods of awarding contracts on a competitive basis. Further, it is generally considered good business practice to solicit competition and regularly compare the costs and services of various providers. This practice helps to ensure that authorities are not incurring higher costs than necessary and that procurements are not influenced by favoritism or fraud.

We recommend that IDA boards establish procurement policies and procedures that require the IDA to follow a competitive selection process for awarding professional service contracts.

Background

Public Authorities Law requires authorities to annually report information on procurement transactions. This information is reported in the Public Authorities Reporting Information System (PARIS). Authorities are to report all procurement transactions made during the fiscal year that have an actual or estimated cumulative value of \$5,000 or more. Authorities are to designate whether these transactions were awarded on a competitive or a non-competitive basis. Competitive processes include competitive bids, selection of the vendor based on best qualified, competitive grant, competitive negotiation, or pre-qualified basis. Non-competitive procurements are those awarded by the authority under a negotiated, emergency, preferred source, sole source, or single source basis.

Section 2824 of Public Authorities Law requires boards of directors to establish written policies and procedures for the procurement of goods and services. However, the content of those policies and procedures may differ depending on the type of authority and procurement transaction. For example, State authorities are governed by Section 2879 of Public Authorities Law, which requires authorities to adopt procurement guidelines that include provisions for the selection of contractors on a competitive basis, while local development corporations have no requirements for competitive selection of contracts. Industrial Development Agency (IDA) procurement practices are governed by Sections 103 and 104b of General Municipal Law. Section 103 requires all purchase contracts in excess of \$20,000, with some exceptions, be awarded through competitive bid. Competitively bid contracts generally require that specific procedures be followed, such as publicly advertising, public bid openings, and a requirement that the lowest bid will be awarded the contract. In addition, Section 104(b) of General Municipal Law requires that goods and services that are not required to be procured by competitive bidding must be obtained in a manner that assures the prudent and economical use of funds while acquiring the maximum quality at the lowest possible costs.

While competitive bidding practices provide assurance that the lowest price is obtained, it may not be appropriate for all types of procurement transactions. For these types of transactions, there are other practices that could be employed to ensure that maximum quality is obtained at the lowest cost. It is generally considered good business practice to solicit competition and regularly compare the costs and services of various providers. These practices ensure authorities are not incurring higher costs than necessary and that procurements are not influenced by favoritism, extravagance or fraud. In addition, the Government Finance Officers Association recommends governmental entities engage in a competitive process for certain professional services such as financial audit services.

Public Authority Procurement Reporting

Based on data reported by public authorities for the fiscal year ending in 2014, there is a wide variance in the extent that competitive selection processes are used by public authorities in procuring contracts and services. Not-for-profit corporations that are defined as local authorities report that 73 percent of the total value of procurements are competitively selected; state authorities report that 65 percent of the total value of procurements are competitively selected; local authorities report that 57 percent of the total value of procurements are competitively selected; and IDAs report that 32 percent of the total value of their procurements are competitively selected. The degree to which competitive selection is used does not appear to be due to differences in the types of goods or services being purchased, since our reviews of public authority operations show that the operations and purchases of most of the not-for-profit entities and IDAs are very similar. Yet the not-for-profit entities report the greatest percentage of competitively selected procurements, while IDAs report the lowest percentage of competitively selected procurements.

Further, there is also a significant variance in the use of competitive selection reported by the different IDAs. For example, 33 IDAs reported that they did not competitively select any procurements, while 10 IDAs reported that all of their authority procurements were competitively selected.

To evaluate whether the use of competitive selection practices had an impact on procurement costs, we identified types of procurement contracts that are common to most IDAs. All public authorities are required to have an annual financial audit performed by an independent certified public accountant, so the procurement of audit services is common to all IDAs. In addition, most IDAs have a general counsel to provide legal services such as attending board meetings, reviewing contracts and providing legal advice on general matters. Many IDAs do not have attorneys as employees, so it is common practice to contract for these legal services. Therefore we analyzed the costs of audit service contracts and the cost of legal service contracts reported by IDAs for the 2014 fiscal year.

To provide a comparable basis for IDAs of different size or degree of activity, we determined the costs of these contracts based on the number of active projects reported by the IDAs. It is reasonable that an IDA with many active projects would be expected to incur higher costs than an IDA that has only a few active projects. Therefore, a dollar for dollar comparison would not provide meaningful results. We found that there is a strong correlation between the number of active projects and the total costs for audit contracts and some correlation between the number of active projects and the costs of legal service contracts.

Based on the data reported by IDAs, we determined that IDAs that report using competitive selection procedures generally incur a lower cost per project for audit and legal service contracts. In 2014, 73 IDAs reported audit contracts in their

annual Procurement Report and, in total, reported spending an average of \$191 per project for audit service contracts. However, those IDAs that report that they generally do not use competitive selection spent an average of \$240 per project on audit service contracts, while those IDAs that reported frequent use of competitive selection spent an average of \$150 per project on audit service contracts.

Compliance Review Objectives

The Authorities Budget Office (ABO) is authorized by Title 2 of Public Authorities Law to review and analyze the operations, practices and reports of public authorities, to assess compliance with various provisions of Public Authorities Law and other relevant State statutes, and to make recommendations concerning the reformation and structure of public authorities. Our objective was to determine the extent competitive selection practices were used and its impact on the costs of audit and legal service contracts.

Compliance Review Scope and Methodology

Our review was conducted between December 2015 and February 2016. We reviewed the 2014 audit and legal service contracts for 16 IDAs to determine the amount paid for those services and whether the IDAs followed competitive selection practices. The IDAs selected for our review are identified in Appendix A. To perform our review we relied on the following documentation and data sources:

- Policies and procedures for procurement practices
- Competitive selection documentation
- Board meeting minutes
- Financial records for payments for audit and legal services
- Data reported in PARIS by the IDAs

In addition to reviewing documents and records, we interviewed IDA officials and reviewed other documentation as necessary to achieve our objectives. Our report contains recommendations to improve the effectiveness of IDA procurement practices.

Review Results

Our review found that IDAs that seek competition in awarding audit and legal service contracts obtain significantly lower costs than IDAs who do not competitively select their audit and legal service contracts.

Audit Contracts

Of the 16 IDAs we reviewed, seven issued requests for their proposals for audit service contracts, while nine IDAs did not seek competition in selecting their audit service contracts. The average audit contract cost per active project for the seven IDAs was \$101, while the average audit contract cost per active project for the nine IDAs that did not seek competition was \$183. The IDAs that did not seek competition in awarding these contracts paid 81 percent more than those IDAs that sought competition.

Audit Service Contracts – Competitive Selection			
Name of IDA	Cost	Number of Projects	Cost Per Project
Tompkins County IDA	\$7,000	60	\$117
Rensselaer County IDA	\$12,152	60	\$203
Onondaga County IDA	\$13,200	85	\$155
Suffolk County IDA	\$19,500	131	\$149
Erie County IDA	\$38,693	276	\$140
Monroe County IDA*	\$12,800	408	\$31
New York City IDA	\$55,000	553	\$99
Average Cost Per Project			\$101
Average Cost Per Project excluding outliers(*)			\$125

Audit Service Contracts – No Competitive Selection			
Name of IDA	Cost	Number of Projects	Cost Per Project
Montgomery County IDA	\$9,500	12	\$792
Albany County IDA	\$5,900	15	\$393
Delaware County IDA	\$9,200	15	\$613
Essex County IDA	\$8,000	16	\$500
Broome IDA	\$18,650	35	\$533
Ulster County IDA	\$8,100	36	\$225
Genesee County IDA*	\$8,500	92	\$92
Albany City IDA*	\$7,000	104	\$67
Nassau County IDA*	\$17,500	180	\$97
Average Cost Per Project			\$183
Average Cost Per Project excluding outliers(*)			\$460

While in general those IDAs that used competitive selection processes had lower costs per project, there are some outliers. Specifically, the audit contract costs per

active project for Monroe County IDA, Genesee County IDA, Albany City IDA and Nassau County IDA were significantly lower than the IDAs that followed similar procedures. Yet, the cost advantage of competitive selection for audit services is even more pronounced when these outliers are excluded: the average audit cost per active project is \$125 for the IDAs that sought competition, while the average audit cost per active project is \$460 for the IDAs that did not seek competition. This is more than three and a half times higher than those IDAs that sought competition.

These results also indicate that geographic location does not appear to be a significant factor affecting the costs of audit service contracts. For example, Broome IDA did not competitively select its audit contract and its cost per active project was \$553. Tompkins County IDA, which is located within an hour's distance, competitively selected its audit contract and had a cost per active project of \$117. Since these IDAs are geographically close, their cost difference appears to be solely due to the selection process used.

Legal Contracts

We found that only 11 of the 16 IDAs contracted for general counsel services, since the other IDAs relied on internal counsel, had counsel provided by the sponsoring municipality or did not have a general counsel. With this limited sample we found that the size of the IDA as measured by the number of active projects does not correlate with the costs of legal service contracts. As such, we were unable to draw reliable conclusions and did not include our results in this report. However, we note that three of the eleven IDAs did seek competition in selecting their legal service contracts, while eight IDAs did not use any competitive selection process when choosing their legal service contracts.

IDA Perspectives

IDAs that did not competitively select their audit and legal service contracts justified their approach by stating that they are not required to competitively bid professional service contracts under General Municipal Law. However, Section 104b of General Municipal Law does require that goods and services not subject to competitive bidding requirements must still be obtained in a manner that assures that maximum quality of services is obtained at the lowest possible costs. Without employing some type of competitive selection process, these IDAs are unable to meet this requirement.

Further, simply because a process is not required in the law doesn't mean that good business practices are not necessary. All IDAs are subject to the same legal requirements, yet we found other IDAs such as Erie County and Onondaga County regularly incorporate competitive selection practices in their selection of audit and legal service contracts. Officials from these IDAs indicated that they seek

competition as a mechanism to obtain lower contract costs while maintaining service quality for professional service contracts.

Eleven of the IDAs indicated that competition was not sought for professional service contracts because it was not required by their procurement policies. However, two of the IDAs that do not require competition in their policies actually did use competitive procedures in selecting the audit service contracts. Further, five of the 16 IDAs decided to incorporate some level of competitive selection for professional services into their procurement policies, either through request for proposals (RFP) or written quotes. For example, Erie County IDA has a professional service RFP process that requires the IDA to solicit proposals for certain professional services on an established schedule. Erie IDA officials indicated that this ensures the IDA is being accountable and transparent with its funds in accordance with Public Authorities Law.

Some IDA officials told us that they believe it is in the IDA's best interest to retain the same auditor and attorney over an extended period. They indicated that the long term relationship allows the individuals to develop an institutional knowledge of the IDA and that changing firms could potentially cost the IDA more money and time if they transition to a firm with no historical knowledge of the IDA.

However, this justification and fear appears to be unfounded. Selecting these contracts on a competitive basis provides assurance the IDA is getting the best quality service for the best price. For example, in 2009 Erie County IDA changed law firms as the result of a competitive selection process. IDA officials indicated that there were minimal issues associated with the transition to a new general counsel and that the schedule for renewing the contract allows an appropriate amount of time for a new firm to become well informed and proficient in the IDA's structure and operations. Erie IDA officials stated that assessing the cost effectiveness of their professional service contracts on a routine basis provided significant value.

Further, a competitive selection process does not always result in a new firm being selected. Instead, employing a competitive selection process could affirm that an existing contract for professional services is the most cost effective choice or it could reveal that there are other firms available that can provide the same quality service at a lower cost. As an example, Onondaga County IDA issued an RFP to select its audit and legal service contracts and the results showed that the existing firms for audit and legal were providing the best quality for the lowest price.

Conclusion and Recommendation

In general, IDAs that use competitive selection procedures to select professional services such as audit and legal services incurred lower costs than those IDAs that did not seek competition. Although professional service contracts, such as audit and legal services, are not required to be competitively bid, there are other methods of seeking competition, such as issuing requests for proposals or obtaining quotes. These other methods often result in significant cost savings and can help to ensure that funds are used prudently and that maximum quality services are obtained at the lowest price. A competitive selection process allows the IDA to seek proposals from various providers and can help ensure that the IDA receives the desired services for the most cost effective terms, encourages accountability and transparency and provides the IDA with assurance that its funds are being used effectively.

We note that, as part of our review, two IDAs indicated their intent to incorporate competitive selection practices in the future when obtaining professional service contracts, and four IDAs (Albany County IDA, Broome IDA, Delaware County IDA, Ulster County IDA) have issued requests for proposals for audit or legal service contracts for subsequent years.

We recommend that IDA boards establish procurement policies and procedures that require the IDA to follow a competitive selection process for awarding professional service contracts.

IDAs Reviewed

Albany County IDA
Albany City IDA
Broome IDA
Delaware County IDA
Erie County IDA
Essex County IDA
Genesee County IDA
Monroe County IDA
Montgomery County IDA
Nassau County IDA
New York City IDA
Onondaga County IDA
Rensselaer County IDA
Suffolk County IDA
Tompkins County IDA
Ulster County IDA