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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

March 28, 2007

James Sherron, Executive Director  
And Members of the Board of the  
Steuben County Industrial Development Agency  
7234 Route 54 North  
Bath, New York 14810

Report Number: P2-7-1

Dear Mr. Sherron and Members of the Board:

One of the Office of the State Comptroller's primary objectives is to identify areas where local governments can improve their operations and provide guidance and services that will assist local officials in making those improvements. Our goals are to develop and promote short-term and long-term strategies to enable and encourage local government officials to reduce costs, improve service delivery and to account for and protect their entity's assets.

In accordance with these goals, we conducted an audit of two Industrial Development Agencies (IDAs) in Steuben County. The objectives of our audit were to (1) determine whether IDA officials have established and consistently applied criteria for selecting firms or businesses receiving sponsorship and economic development incentives; and (2) determine whether IDAs have designed and implemented systems to adequately verify reported job data, evaluate project performance, and recapture benefits for performance shortfall. We included the Steuben County Industrial Development Agency (SCIDA) in this audit. Within the scope of the audit, we examined the policies and procedures of the SCIDA, and reviewed selected projects that the SCIDA took title to from 1996 to 2005.

This report of examination letter contains our findings and recommendations specific to the Steuben County IDA. We discussed our audit results with IDA officials and considered their comments in preparing this report. The SCIDA's response is attached to this report in Appendix A. At the completion of our audit of the two IDAs, we will release a global report that summarizes the significant issues identified at both IDAs that were included in our audit.

## **Summary of Findings**

Our examination disclosed that SCIDA officials have not established formal criteria which can be applied consistently for selecting firms or businesses receiving sponsorship and economic development incentives. In addition, SCIDA does not have systems in place to adequately verify project application information. SCIDA officials do not attempt to evaluate project performance to see if the businesses are producing benefits to the community as intended or if benefits should be recaptured. Finally, SCIDA officials do not compare estimated sales tax exemptions at application to actual sales tax exemptions reported by sponsored businesses.

## **Background and Methodology**

The Steuben County Industrial Development Agency is an independent public benefit corporation which was created by State legislation in 1972. The powers and duties of IDAs are set forth in Article 18-A of General Municipal Law. The purpose of IDAs is to promote, develop, encourage and assist in acquiring, constructing, improving, maintaining or equipping certain facilities, thereby advancing job opportunities, health, general prosperity and the economic welfare of the people of the State.

A seven-member Board appointed by the Steuben County Legislature governs the SCIDA. The SCIDA carries out its mandate by offering financial incentives to attract, retain and expand businesses within Steuben County. Such incentives could include one or more of the following: issuance of low interest bonds, abatements from real property tax, and exemptions from sales tax and mortgage recording tax. Businesses that receive real property tax exemptions typically enter into payments in lieu of taxes (PILOT) agreements that enable the affected taxing jurisdictions to recover a portion of the forgone property taxes.

We reviewed internal controls over the application, approval, monitoring and evaluation of projects seeking SCIDA sponsorship. We obtained our understanding of these internal controls by inquiry, observation and inspection of documents and records. Our audit also included tests of selected projects that the SCIDA took title to (closed) between 1996 and 2005 that evidenced how SCIDA officials estimated incentives and approved, monitored and evaluated projects.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). Such standards require that we plan and conduct our audit to adequately assess those SCIDA operations within our audit scope. Further, those standards require that we understand the SCIDA's management controls and those laws, rules and regulations that are relevant to the SCIDA's operations included in our scope. An audit includes examining, on a test basis, evidence-supporting transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. As part of our audit, we reviewed project applications prepared by businesses receiving incentives and the project files maintained by SCIDA. We did not verify any of the information reported by the businesses on the

forms or applications. We used this unaudited data to provide perspective in our report and to demonstrate why it is important for SCIDA officials to monitor project performance such as job creation and to evaluate the accuracy of estimated and reported sales tax abatements. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations contained in this report.

## **Audit Results**

### **Project Evaluation Criteria and Project Approval**

New York State Law specifies that only certain types of projects are eligible for IDA assistance. These include manufacturing, warehousing, research, commercial or industrial facilities; or industrial pollution control, recreation, educational, cultural, horse racing, railroad, and civic facilities. Since the legislation provides a broad framework for eligible projects, and the tax benefits granted by IDAs may result in a substantial cost to the community; it is important for IDAs to develop project evaluation criteria and use these criteria consistently when making project sponsorship decisions. This is necessary to help ensure that only those projects that are most beneficial to the community receive IDA sponsorship.

There is a wide range of diverse factors an IDA could, and should, consider when making project decisions. Evaluation criteria could include such things as the creation of a certain number of jobs, achievement of certain wage levels, and possible increased productivity and competitiveness of the company. Other factors to consider are the projects' impact on community development and public policy issues. These factors could encompass whether projects will improve, diversify, or stabilize the local economy, stimulate other business development in the area, revitalize a business district, or modernize facilities to meet health, safety and environmental requirements.

IDAs should also evaluate the project applicant's financial operations prior to approving the project. Such evaluations could include reviewing the applicant's credit history, assessing the strength of the business by analyzing past earnings and projected cash flow, and considering the experience of management.

In addition, IDAs should carefully determine if IDA involvement is necessary for the company to put the project into operation in the local area, whether an existing company would move to another state if it did not receive IDA assistance, or whether a project would be undertaken even without IDA sponsorship.

The SCIDA Board adopted a *Uniform Tax Exempt Policy* in April 1999. This policy states that the IDA may provide financial assistance to qualified applicants for qualified projects. Industrial and non-industrial projects are considered to be eligible.

In order to obtain financial assistance from SCIDA, the prospective company is required to fill out a project application which consists of basic applicant information such as the

company name, the form of entity and the applicant's counsel. The application also requires a description of the project, a cost benefit analysis including number of jobs created and/or retained, the financial assistance being applied for, and estimated project costs. The Board reviews the application and holds a public hearing for projects it anticipates will receive benefits in excess of \$100,000 prior to rendering a decision on whether to approve a project. The following were noted as weaknesses pertaining to the application process:

- Although the *Uniform Tax Exemption Policy* provides some general guidance to SCIDA officials when making project eligibility decisions, the Board has not developed specific project evaluation criteria such as job targets or wage levels for use in its decision-making process. Utilizing specific and formal evaluation criteria as part of its sponsorship decision-making process provides the Board with greater assurances that a consistent approach is applied to achieve the SCIDA's objectives, and that reasonable cost-benefit determinations are made. Since the SCIDA has not developed specific project evaluation criteria and did not document how the claims of project applicants were used in the decision-making process, it was not possible to determine whether every project was subjected to a consistent and fair evaluation process.
- The SCIDA did not have a formal procedure to determine that the project would not have proceeded without tax incentives. SCIDA did not include questions in the project application to determine why the project owner needs tax incentives or whether the business would proceed without the tax incentives.
- The SCIDA requires the applicant to sign a certification stating that the information they put in the application is correct. However, SCIDA officials who review the application prior to presentation to the Board informed us that they do not verify the current employment levels or other information provided on the project applications. When IDA officials do not verify reported employment levels at the time of application, it could result in an inaccurate measure of project performance in the future. For example, if an applicant understates its employment numbers in the application, this could lead to an overstatement of the number of jobs reported as created in future years.

### **Project Monitoring and Evaluation**

The SCIDA Board should monitor and evaluate the performance of businesses receiving financial assistance to determine whether the businesses are meeting the goals established in their project applications. Without effective monitoring, the SCIDA will not be able to identify and address business performance shortfalls; and the community will not be able to determine if desired benefits have been achieved.

SCIDA includes provisions in its application that require project owners to submit annual employment reports if financial assistance is provided by the IDA. However, it did not enforce this provision, and none of the 11 project files we reviewed included this

information. After our inquiries, the SCIDA secretary called project owners and provided us with a listing of employment figures as of December 31, 2005. SCIDA must have timely employment data to effectively monitor and evaluate project performance.

Although not required by law, SCIDA's *Uniform Tax Exemption Policy* provides that SCIDA may recapture the value of the incentives received by a business if the project does not achieve its stated economic benefits. The SCIDA policy states that if any of the projects are sold or closed, if there is a significant employment reduction, significant change in use in facility or significant change in business activity, then the benefits can be recaptured.

Although SCIDA has this recapture provision, officials informed us they have never invoked it to recover the incentives granted to businesses for performance shortfalls. SCIDA does not have a procedure to begin the recapture process. Since SCIDA does not gather annual performance data it would not have the information they it needs to make a determination to recapture the value of incentives granted.

For sales tax exemptions, project owners are required to report the actual sales tax savings (that which they received an exemption for due to the IDA status of the project) to the New York State Department of Taxation and Finance on form ST-340. The SCIDA does not require project owners receiving sales tax exemptions to send copies of the ST-340 forms to SCIDA. In the past, the Agency has been notified by the Department of Taxation and Finance if any company has failed to submit the ST-340.

A comparison of estimated sales tax exemptions with actual exemptions claimed would enable SCIDA officials to identify and investigate large variances, and to use the information to develop more accurate estimates. It would also improve accountability if SCIDA officials were to follow-up with those businesses that reported sales tax exemptions which significantly exceeded estimates to help ensure that the sales tax exemptions were only used for the intended purpose.

## **Recommendations**

1. The SCIDA Board should develop specific project evaluation criteria upon which to base sponsorship decisions. This would include setting standards for reasonable cost-benefit determinations of projects and ways to evaluate the likelihood of a project being undertaken without IDA assistance. The criteria would also enable the Board to develop benchmarks to evaluate approved project performance.
2. IDA officials should use a standardized format to document the project evaluation process so that it can be readily determined upon which criteria the decision to sponsor a specific project was based.
3. The SCIDA Board should develop a process to verify information included on the project applications submitted by businesses.

4. SCIDA should evaluate the project applicant's financial operations prior to approving the project. This evaluation could include reviewing the applicant's credit history, assessing the strength of the business by analyzing past earnings and projected cash flow, and considering the experience of management.
5. SCIDA officials should require that all businesses receiving financial assistance submit annual certified employment reports.
6. SCIDA officials should take steps to verify reported employment data, such as making on-site inspections of company premises or obtaining payroll information. The Board should consider entering into contractual agreements with benefited project owners that provide SCIDA officials with access to employment information.
7. The SCIDA Board should require that project monitoring be performed to determine if the projects are producing benefits as intended. The Board should consider recapturing benefits for projects that meet the requirements in the recapture section of its *Uniform Tax Exemption Policy*.
8. The SCIDA Board should require that businesses receiving sales tax abatements supply copies of form ST-340. Officials should compare the sales tax exemptions the project owners are claiming against the estimate at application and investigate the reason for significant variances.

The SCIDA Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, the Board should prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days. We encourage the Board to make this plan available for public review in the SCIDA Secretary's office. See the attached document for additional information on filing a corrective action plan. Our Office is available to assist you upon request. If you have any further questions, please contact the local regional office for your county listed at the back of this report.

Sincerely,

Steven J. Hancox  
Assistant Comptroller  
Division of Local Government Services and  
Economic Development

## **APPENDIX A**

### **RESPONSE FROM SCIDA OFFICIALS**

The SCIDA officials' response to our audit can be found on the following pages.



**STEUBEN COUNTY  
INDUSTRIAL  
DEVELOPMENT  
AGENCY**

*Driving the Wheels  
of Change*

February 1, 2007

State of New York  
Office of State Comptroller  
16 West Main Street, Suite 522  
Rochester, New York 14614

**Re: New York State Office of State Comptroller Audit of the Steuben  
County Industrial Development Agency**

To Whom It May Concern:

Please accept this correspondence in response to the New York State Comptroller's Office January 10, 2007 preliminary findings ("Findings") regarding the audit of [insert applicable IDA] ("Agency") conducted in 2006.

For convenience purposes we have restated the auditor's recommendations set forth in the Findings prior to each of the Agency's responses.

1. Recommendation: *The Agency should develop specific project evaluation criteria upon which to base sponsorship decisions. This would include setting standards for reasonable cost-benefit determinations of projects and ways to evaluate the likelihood of a project being undertaken without IDA assistance. The criteria would also enable the Agency to develop benchmarks to evaluate approved project performance.*

Agency Response: As part of the Agency's application process, all project applicants will be required to complete a cost benefit analysis comparing the requested benefits against project costs and job creation. Applicants will also need to provide objective information showing that *but for* the requested assistance, the project would not be undertaken. This will be set forth in an amended application.

2. Recommendation: *Agency officials should use a standardized format to document the project evaluation process so that it can be readily determined upon which criteria the decision to sponsor a specific project was based.*

Agency Response: As stated under 1 above, the Agency is in the process of developing a specific evaluation process to be made part of all project applications. Included in this standardized format will be a cost benefit analysis. Upon completion of the amended application, the Agency will provide your office with a copy of same.

3. Recommendation: *The Agency should develop a process to verify information included on the project applications submitted by businesses.*

Agency Response: The Agency currently requires all project applicants to represent that all information provided is true, accurate and complete. In order to verify accuracy of such information, the Agency will request non-confidential project specific information, including, plans and specifications, financing commitments, project feasibility studies, environmental reports, etc... In certain circumstances, the Agency may require audited or un-audited financial statements and reports – both at the initial application stage and throughout the Agency benefit period.

4. Recommendation: *The Agency should evaluate the project applicant's financial operations prior to approving the project. This evaluation could include reviewing the applicant's credit history, assessing the strength of the business by analyzing past earnings and projected cash flow, and considering the experience of management.*

Agency Response: As stated above, the Agency will require additional financial and other related information during the application process and throughout the Agency benefit period. This may or may not include audited financial statements. The Agency will require applicants to provide general financial information (including management structure) regarding any existing operations both within and outside of the Agency's jurisdiction and for any operations outside of New York State.

5. Recommendation: *Agency officials should require that all businesses receiving financial assistance submit annual certified employment reports.*

Agency Response: The Agency will require all recipients of financial assistance to provide annual certified employment reports. Such requirement will be contained within Agency closing documentation.

6. Recommendation: *Agency officials should take steps to verify reported employment data, such as making on-site inspections of company premises and obtaining payroll information. The Agency should consider entering into contractual agreements with benefited project owner that provide the Agency officials with access to employment information.*

Agency Response: As stated above, the Agency will implement an employment reporting process which may include the requirement of non-confidential payroll information. Such requirements will be made part of transaction closing documents entered into between the Agency and project sponsor.

7. Recommendation: *The Agency should require that project monitoring be performed to determine if the projects are producing benefits as intended. The Agency should consider recapturing benefits for projects that meet the requirements in the recapture section of its Uniform Tax Exemption Policy.*

Agency Response: The Agency currently has a policy (unwritten) to allow the recapture of benefits as determined necessary by the board. This will be made part of

the Agency's uniform tax exemption policy. In addition, the Agency transaction documentation will allow Agency inspection and monitoring of all projects including review and analysis of financial assistance and impact on overall project costs.

8. Recommendation: *The Agency should require that businesses receiving sales tax abatements supply copies of form ST-340. Officials should compare the sales tax exemptions the project owners are claiming against the estimate at application and investigate the reason for significant variances.*

Agency Response: The Agency, as part of its uniform tax exemption policy and transaction documents, will require project sponsors to supply copies of all completed ST-340 forms and compare same against representations contained in the original application. Any material variations will require project applicant to provide accounting.

Upon completion of the amended application, our office will supply a copy of same to you. In addition to the above, the Agency board is considering the implementation of additional accounting and other requirements for all projects, including, input from affected tax jurisdictions and host municipalities.

Please feel free to contact our office with comments or questions.

Very truly yours,



James P. Sherron  
Executive Director

JPS/kjw