



**New Rochelle
Industrial Development Agency**
City Hall, 515 North Avenue, New Rochelle, NY 10801
(914) 654-2193 fax (914) 632-3626

CORRECTIVE ACTION PLAN

Unit Name: **New Rochelle Industrial Development Agency**
Audit Report Title: **Project Approval and Monitoring
Report of Examination**
Audit Report Number: **2010M-12**

Consistent with the Office of State Comptroller template for responding to an OSC audit, the following is our corrective action(s) taken or proposed for each recommendation included in the audit report.

1. **Audit Recommendation: Board should develop specific project evaluation criteria upon which to base sponsorship decisions.**

NRIDA utilizes the Uniform Tax Exemption Policy and the IDA Process Worksheet (previously provided) to screen and evaluate projects for eligibility and public benefit. One set of specific criteria meant to apply to all applications is neither practical nor possible. Projects vary widely in intent, purpose, need and cost basis. Nonetheless, benchmarks can be used as a tool to screen and begin the public review and to guide applicant expectations.

Implementation Plan of Action(s): 1. NRIDA will modify its UTEP guidelines and develop a general policy guideline for the claiming of real property, mortgage recording and sales tax exemptions. 2. NRIDA will initiate a file completion check list (Exhibit A) to ensure complete documentation of application necessary to conduct analysis and approvals.

Implementation Date: 1. Spring 2011
2. Fall 2010

Person Responsible for Implementation: 1. Assistant Secretary
2. Executive Director

2. **Audit Recommendation: NRIDA officials should use a standard format to document the project evaluation process so that interested parties can readily determine which**

criteria officials used to make the decision to sponsor, or deny assistance to, a specific project.

Implementation Plan of Action: The new Uniform Application (Exhibit B) will be readily available to all applicants, interested parties and general public via the IDA webpage and office. The application is based on the New York State Economic Development Council's 'Recommended Policies' and will contain information used by the Board for its decision making. The Board's action will be based on this standard uniform application as well as applicant's financial information discussed in Finding #5.

Implementation Date: Fall 2010

Person Responsible for Implementation: Executive Director

3. **Audit Recommendation: The Board should perform a documented cost-benefit analysis for each proposed project.**

NRIDA has utilized cost benefit reviews produced at a variety of levels including as part of the municipal SEQR, City Council consideration, staff level analysis and NRIDA subcommittee work. NRIDA current standard application contains cost benefit section. NRIDA has noted that not all public benefits can be easily quantified (e.g. removal of blight, improvements to quality of life,) and that subjective elements will also be evaluated by the Board in addition to a cost benefit exercise.

Implementation Plan of Action: NRIDA will buttress its cost benefit review by instituting a more thorough cost benefit analysis which will include an assessment of project sources and uses, operating pro forma and development plan. Such cost benefit analysis may be done by third party reviewers and will be presented to the NRIDA board for consideration prior to its decision making. As stated in our May 2010 Response Letter, NRIDA will prepare and present a summary document including rationale for level of subsidy.

Implementation Date: Spring 2011

Person Responsible for Implementation: Assistant Secretary

4. **Audit Recommendation: The Board should verify the information on the project applications, including the stated number of existing jobs.**

Today, NRIDA verifies data from applicants through use of lender letters; annual financial reports, credit statements and project building permit applications. Other financial investors undertake extensive due diligence in terms of project costs and economic viability which is also utilized by NRIDA. In addition, per their existing lease agreements, companies are required to list new employment opportunities with the NYS Department of Labor, pursuant to Job Training Partnership Act.

Implementation Plan of Action: To complement the verification process and as per Findings 1 and 2 above, the new File Checklist and new NRIDA Uniform Application (Exhibits A and B) will require a certification of current employment.

Implementation Date: Fall 2010

Person Responsible for Implementation: Executive Director

5. **Audit Recommendation: The Board should evaluate the project applicant's financial operations prior to approving the project. These evaluations should 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.**

Both the Director of Finance and the Board does evaluate project applicant financial operations prior to approving the project including applicant's financial and managerial information. In fact, the NRIDA board is made up of financial analysts, accountants, and attorneys skilled in this type of analysis.

Implementation Plan of Action: 1. As appropriate and when necessary, the Board will retain outside qualified professionals to review unique business operations and/or financial operating plans. 2. Board will adopt specific policy governing fees and review procedure for applicants when third party review is necessary.

Implementation Date: 1. Fall 2010
2. Spring 2011

Person Responsible for Implementation: Executive Director

6. **Audit Recommendation: NRIDA officials should verify the employment data (number of existing jobs) that businesses report in their ongoing annual reports to NRIDA and determine whether reported data is accurate and reliable.**

NRIDA currently receives and utilizes company statements of existing employment data. During 2009-10, NRIDA included an “Annual Reporting Company Checklist” in each project real estate closing binder which will be expanded to include additional tracking requirements and will complement the File Checklist, as reference above. NRIDA also began to request certified payrolls or third party audited statement of employment last year.

Implementation Plan of Action: NRIDA will request certified payrolls, audited statements and/or certification by business executive of existing annual employment from all applicants and as part of its Uniform Application.

Implementation Date: ongoing

Person Responsible for Implementation: Executive Director

7. **Audit Recommendation: NRIDA officials should monitor projects on an ongoing basis to determine whether they are making reasonable progress toward projected goals. Such monitoring should include tracking the capital amounts invested by project owners to ensure they are equal to those specified on the application and used in the cost-benefit analysis.**

NRIDA monitors capital investment as it occurs during construction through the City of New Rochelle Building and Planning Departments. The issuance of certificates of occupancy confirms the completion of physical construction. Ongoing annual monitoring of actual business operations has been problematic due to staff shortages (as noted in the audit) and staff has had to rely on periodic calls, applicant reports as required in PARIS and via PAAA and occasional project specific site visits.

Implementation Plan of Action(s): 1. NRIDA will develop an annual project monitoring format (Exhibit C) to be used for scheduled site visits and PAAA tracking. 2. NRIDA through the City of New Rochelle Department of Development will implement a project identification system linking information within municipal planning and building departments and the IDA. 3. Applicants will be required to submit a certified statement of actual costs within Uniform Application. If project costs differ significantly from application representations, NRIDA staff will ask the company to provide reasons, will alert the Board, and after review will determine if action will need to be taken, including but not limited to recapture, clawback or additional fees.

Implementation Date: 1. Fall 2010
2. Winter 2011
3. Fall 2010

Person Responsible for Implementation: 1.Executive Director
2. Assistant Secretary
3. Executive Director

8. **Audit Recommendation: The Board should make sure all eligible projects include an agreement to recapture the financial incentives provided if the business does not produce the intended benefit; and should invoke those recapture provisions, as appropriate, if monitoring activity shows that the business has not delivered sufficient benefits.**

NRIDA agreements contain recapture clauses. However, not all deals (e.g. affordable housing) are subject to recapture. Further, it needs to be noted that there can be a variety of factors outside the control of applicants/businesses that could contribute to a failure to meet project objectives. NRIDA in fact has not only deliberated recaptures and authorized extensions (Parcel 1A) but has also outright recaptured benefits (Trump Plaza) and has structured PILOTs (New Roc City) based on performance.

Implementation Plan of Action: 1. NRIDA will continue to have recapture clauses and will institute clawbacks as it has already incorporated into recent NRIDA deals. NRIDA will review projects via its annual monitoring (per finding #7) and when necessary, initiate recapture when the performance is a result of failure by the actions of the applicant. Warnings to this effect will be included in new Uniform Application. 2. The revised UTEP policy will include a schedule to guide recaptures should they be necessary.

Implementation Date: 1.Ongoing
2. Spring 2011

Person Responsible for Implementation: 1.Executive Director
2. Assistant Secretary

9. **Audit Recommendation: NRIDA should comply with GML by remitting PILOTs received to the affected tax jurisdictions within 30 days of receipt.**

Implementation Plan: NRIDA concurs with this finding and noted in its May 14 2010 response letter that such policy has been implemented.

Implementation Date: April 2010

Person Responsible for Implementation: CFO

This CAP was reviewed by the NRIDA Audit Committee and adopted by the full NRIDA Board at its September 2, 2010 meeting.

Signed:

Date:

Marianne L. Sussman
Chair, NRIDA Board

PROJECT FILE CHECKLIST

New Rochelle Industrial Development Agency

ITEM	RESPONSIBLE PARTY
<u>Project - Review</u>	
Project Summary	Staff
Preliminary Cost-Benefit Analysis	Staff
Project Application	Staff
Attachments supplied by project	Staff
Resolution Accepting Project for Review	Counsel
<u>Project Inducement</u>	
Formal Application & Initial Application Fees	Staff
Project Summary	Staff
Cost-Benefit	Staff
EAF	Counsel
Inducement Resolution	Counsel
SEQRA Resolution	Counsel
<u>Project PILOT</u>	
Project Summary	Staff
PILOT Structure (chart)	Staff & Board Subcommittee
Sample Letter to Jurisdictions	Staff
List of Jurisdictions	Staff
PILOT Resolution	Counsel
<u>Bond Resolution</u>	
Project Summary	Staff
Bond Resolution	Counsel
<u>Project Closing</u>	
Project Summary	Staff
Closing Resolution	Counsel
Fees Collected in Full	Staff
<u>Project Monitoring</u>	
Field Visit Reports	Staff
Annual Certifications	Staff
Board Action--if any--(e.g., Recapture, Clawback, etc.)	Board
<u>Project Termination</u>	
Project Summary	Staff
Termination Resolution	Counsel

NRIDA

515 North Avenue
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Uniform Application and Project Evaluation Criteria

Company Name:	Owner:
Company Address:	DBA:
Senior Decision Maker and Company Attorney Contact Info (incl. phone and email):	SIC/NAICS #:
	Federal ID #:
Project Type: <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Retail <input type="checkbox"/> Housing: <input type="checkbox"/> Senior <input type="checkbox"/> Affordable <input type="checkbox"/> Market Rate <input type="checkbox"/> Public Use	<input type="checkbox"/> New Development <input type="checkbox"/> Rehab <input type="checkbox"/> Refinance

Location of Project:

Address: _____

Tax Map #: _____

Current Zoning: _____

Benefits Requested:

Sales Tax Exemption IRB MRT Exemption Real Property Agreement

Project Purpose: (Agency use ONLY)

<input type="checkbox"/> Job Creation
<input type="checkbox"/> Job Retention
<input type="checkbox"/> Community Development
<input type="checkbox"/> Quality of Life
<input type="checkbox"/> Regionally Significant
<input type="checkbox"/> Development that will attract other investment
<input type="checkbox"/> Housing in downtown and/or Affordable units

NRIDA

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Uniform Application and Project Evaluation Criteria

History of Applicant, including:

Year business was established: _____

Authorized to do business in New York, if foreign company: _____
Place established: _____

Annual report, received.

Statement and status regarding past use of government incentives, if applicable:

Number of existing employees at project site: _____

Form of Business Entity:

- Public Corp.
- Private Corp.
- LLC/Partnership
- Sole Proprietorship
- 501 (C) (3) or other Not For Profit Corporation

Project Description including the following:

Statement describing project (i.e. land acquisition, construction of manufacturing facility, etc.): _____

Property and/or building size of completed project: _____

Use of Facility:

- | | | | |
|--|---------------------------------------|-----------------------------------|--------------------------------------|
| <input type="checkbox"/> manufacturing | <input type="checkbox"/> warehousing | <input type="checkbox"/> research | <input type="checkbox"/> offices |
| <input type="checkbox"/> industrial | <input type="checkbox"/> recreation | <input type="checkbox"/> retail | <input type="checkbox"/> residential |
| <input type="checkbox"/> training | <input type="checkbox"/> data process | <input type="checkbox"/> other | |

If other, explain: _____

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Uniform Application and Project Evaluation Criteria

Proposed start and completion date: _____

Has Environmental Review required under State Environmental Quality Review Act been completed: _____

Name of Project Architect/Engineer/Contractor (if known):

Project costs, including:

Value of property to be acquired: \$ _____

Value of improvements: \$ _____

Value of equipment to be purchased: \$ _____

Estimated cost of engineering/architectural services: \$ _____

Total Project Budget: \$ _____

Sources and uses of funds submitted, including how NRIDA funds are to be used.

Project Benefits:

Estimated number of construction jobs: _____

Estimated number of FTE jobs to be created: _____

Estimated annual local taxes to be paid at full assessment: \$ _____

Estimated average wages and benefits by job category: \$ _____

Value of Incentives:

Existing Property Tax paid on land and/or building: \$ _____

Estimated new Property Tax revenue if projects did not receive Property Tax exemption:
\$ _____

Estimated new tax revenue if project does receive exemption: \$ _____

Estimated time of Sales Tax exemption: _____

NRIDA

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Uniform Application and Project Evaluation Criteria

The Applicant understands and agrees with the NRIDA (the Agency) as follows:

Job Listings: In accordance with Section 858-b (2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives Financial Assistance from the Agency, except otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the “DOL”) and with the administrative entity (collectively with the DOL, the “JTPA Entities”) of the service delivery area created by the federal job training partnership act (Public Law 97-300) (“JTPA”) in which the Project is located.

First Consideration for Employment: In accordance with Section 858-b (2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.

Annual Sales Tax Filings: In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the Annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.

Annual Employment Reports: The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency on an annual basis, reports regarding the number of people employed at the project site.

Absence of Conflicts of Interests: The Applicant has received from the Agency a list of the members, officers and employees of the Agency. No member, officers or employees of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein described:

NRIDA

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Uniform Application and Project Evaluation Criteria

Application Agreement

In consideration of the NRIDA reviewing this application, applicant hereby releases New Rochelle Industrial Development Agency, and the members, officers, servants, agents and employees thereof (the "Agency") from any claims, and agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from any acts or omissions of the Agency by reason of (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken or expenses incurred by the Agency with respect to the project; including without limiting the generality of the foregoing, all causes of action, all attorneys' and consultants fees and any other expense incurred which may arise. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final agreement with the respect to the Project, then, in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in the processing of the Application, including attorneys' and consultants fees, if any.

(Applicant)

By: _____

Name: _____

Title: _____

Sworn to before me this
_____ day of _____, 20__.

Notary Public

ANNUAL PROJECT MONITORING SHEET

New Rochelle Industrial Development Agency

Site Visit Report

Project:

Date of Site Visit:

Location(s)/Address Visited:

Names/Titles of staff/board members attending visit:

Amount of IDA-benefits received for current year: Overall:

1) Project Goals stated in current IDA Application/Lease Agreement:

2) Development/Operation Activities to support accomplishment of stated Goals:

3) Public Benefit Goals:

a) Site Visit Observations:

Employee Count:

Times of Site Visit Observation:

Total Observed:

4) General Observations:

- Operational/Business Activity Level:

- Utilization of Site & Facility:

(e.g., % parking spaces occupied; % space devoted to storage, manuf., retail; vacant areas; areas designated for future improvements; etc.)

- General Condition of Site & Facility/Recent Improvements:

5) Additional Observations:

6) Problems, Concerns, or Issues Noted:

7) Recommendations to address concerns or issues stated above:

Signature(s) of Staff/Board Member(s)
Conducting Site Visit

Signature of Company Representative
or Official Company Stamp

Annual Reporting Information Required of the Company to the NRIDA

(According to the NYS Authority Budget Office / NYS Office of the Comptroller
Public Authorities Reporting System)

1. **ST-340 Form (Original to NYS Division of Taxation & Finance – IDA Unit and copy to IDA)**
 - a. **Itemized breakdown of sales tax expenditures and contractors**
 - b. **Certified statement that the sales tax exemption was applied for and taken during the time period specified in the Lease Agreement (e.g., during construction)**
 - c. **Certified statement showing remaining balance of permitted sales tax exemption and that total amount taken to date has not exceeded amount approved**
2. # of FTEs before IDA Status
3. Original Estimate of Jobs to be created
4. Average estimated annual salary of jobs to be created (at current market rates)
5. Annualized salary Range of jobs to be created
6. Original Estimate of Jobs to be Retained
7. Estimated average annual salary of jobs to be retained (at current market rates)
8. **Current # of FTEs**
9. **# of FTE Construction Jobs during fiscal year**
10. Net Employment change

Additional Reporting Requirements:

11. Insurance documentation

12. Documentation of Job Referral Obligation: According to project Lease Agreement, companies are required to list new employment opportunities with the NYS Department of Labor, Community Services Division and with the administrative entity of the service delivery area in which the project is located pursuant to the Job Training Partnership Act
13. Documentation of Certified Statement of Total Project Cost (property purchase and building/equipment investment) as verified by Building Department
14. All required PILOT payments, IDA and City fees made on time

Notes: Employment and salary information should be notarized and certified by an independent audit firm.

Items #1, 8 and 9 in bold must be provided every year by all active projects. The other items must also be provided for all new projects. Once entered, these values will carry over from year to year and/or be automatically calculated.