

Project Monitoring Policy

This sets forth the policies and procedures of the Agency for monitoring approved projects to ensure that businesses are receiving only the benefits and incentives to which they are entitled and that have been granted by the Agency. This also sets forth the policies and procedures for monitoring and evaluating the performance of approved projects and determining whether they are meeting the goals established in the project applications.

Payment in Lieu of Taxes

The Agency has contracted with the Town to have the Town Comptroller bill, collect and disburse the payments in lieu of tax (“PILOT”) that are a requirement of Agency projects. The procedures are as follows:

- 1) After the closing of an Agency project, Bond Counsel will send a form 412A and a copy of the PILOT agreement to the Assessor and a PILOT agreement to the Comptroller. The Assessor will mark the assessment records that the property is “exempt.
- 2) The Comptroller will send PILOT bills in January and September of each year. PILOT bills will start after completion of construction and issuance of a certificate of occupancy. The Comptroller will prepare a spreadsheet showing projected PILOT bill amounts and actual bills for each project and by comparing the projected figures with the actual bill amounts test whether the numbers are correct. The Comptroller will send draft PILOT bills to the Agency Executive Director for review before sending the bills to the beneficial owners of the projects. The Comptroller will send the spreadsheet and copies of the PILOT bills after each billing event to the Agency CFO/Treasurer and the Agency Executive Director who will each review the PILOT bills. Confirmation of payment of affected tax jurisdictions is not necessary because the tax jurisdictions expect to receive the PILOT funds and notify the Comptroller if the funds have not been received. If a project fails to pay a PILOT bill, the Comptroller will notify the Agency Executive Director who will carry out collection procedures in accordance with the PILOT agreement.
- 3) If a beneficial owner transfers a project to a new entity and the PILOT agreement is assigned and assumed by the new entity, Bond Counsel will send the PILOT modification agreement to the Assessor and Comptroller at closing so that the Assessor and the Comptroller will know the names and the address of the new beneficial owner of the project .

Sales Tax & Use Tax

The letter appointing the Company as agent for the collection of sales and use taxes shall set forth the expiration date of the appointment consistent with the estimated date of completion of construction and the total value of sales and use tax exemptions for such period of time. The Agency CFO/Treasurer receives form ST-340 annually for each project and will compare that form with form ST-60 to ensure that sales and uses tax exemptions reported were not in excess of the amount authorized by the Agency and were not for purchases that were made outside of the authorized exemption period established by the Agency.

Job Creation & Retention

Jobs (“Employment Level”) to be maintained during the term of a project will be set forth either in the PILOT agreement or more recently in the Project Benefit Agreement. Prior to 2004 jobs were set forth only in the project application and were not required to be maintained. The procedure to monitor jobs is as follows:

- 1) Prior to closing, a project will have to submit a form NYS-45 to confirm the number of existing jobs set forth in the application.
- 2) Annually as part of collecting information for the PARIS report, the CFO/Treasurer will request a form NYS-45 to verify existing jobs.
- 3) The Executive Director will annually report to the board whether approved projects met the employment goals agreed to in project documents.

Reconveyed Properties

The PILOT agreement should set forth the termination date of the PILOT; at that at that point the PILOT payment will be computed at 100% of the assessment. The lease and leaseback agreement between the Agency and beneficial owner should state the expiration dates of the terms of those agreements. When the agreements have expired by their terms, the beneficial owner will be the title holder of the real property. In addition Bond Counsel will file a memorandum with the Albany County Clerk showing the termination of the lease, the leaseback agreement and the PILOT agreement. The Comptroller will advise the Assessor and the Agency when the PILOT is billed at 100% and when the end of the term of the PILOT agreement has been reached.