

ULSTER COUNTY COMPTROLLER'S OFFICE

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A Study of the Impact and Best Practices for Industrial Development Agencies

The mission of the Ulster County Comptroller's Office is to serve as an independent agency of the people and to protect the public interest by monitoring County government and to assess and report on the degree to which its operation is economical, efficient and its financial condition sound.

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EXECUTIVE SUMMARY

Purpose of the Report

Do the benefits conferred by Industrial Development Agencies (IDAs) create jobs and expand the property tax base, or do they give away unnecessary tax breaks to businesses which would locate within their jurisdiction anyway? And even if an IDA's incentives do play a key role in the decision of business owners and developers as to where to locate their Projects, is the return to the community commensurate with the breaks being given?

The purpose of this study by the Ulster County Comptroller's Office is to present the conclusions in recent scholarship and experience on these questions, and offer best practices based upon our consideration of the body of knowledge available, with particular emphasis on the operation of the Ulster County Industrial Development Agency (UCIDA).

Ulster County IDA Review

The Ulster County IDA had 37 existing and 3 pending Projects as of the conclusion of research on this report. Each Project was either financed by IDA bonds, supported by tax abatements, or both. Ideally, the IDA assistance enabled these businesses to create or retain jobs and to make capital investments that expanded the local property tax base. As of 2013, businesses supported by the UCIDA had created or retained 3,902 jobs, or 97% of the number promised on their applications for assistance. Those businesses benefited from \$4,407,701 in property tax exemptions that year, but made \$1,384,253 in payments in lieu of taxes ("PILOT" payments) for net exemptions of \$3,023,448. Supporters of IDAs would argue IDA activity generated those 3,902 jobs along with the almost \$1.4 million in new property tax revenue. Detractors would say those jobs would have been created or preserved anyway, and IDA activity cost the County over \$3 million in lost tax revenue in 2013.

Summarizing the IDA Debate

Research as to the effectiveness of IDAs returns mixed results. Almost all businesses receiving IDA support create or retain jobs, but researchers disagree about whether the IDA's support is necessary or whether the jobs would be created or retained anyway. Two New York-specific studies were conducted in the 1990s. A survey sponsored by the Empire State Development Agency found that 30% of businesses receiving IDA assistance would have canceled their Projects or located out of state without IDA support, and an additional 45% would have delayed or scaled back their Project. Only 25% would have built the same Project within New York State. However, a smaller study sponsored by the Fiscal Policy Institute found that IDA assistance was critical to only one third of Projects. Based upon these studies, between one third and three quarters of IDA tax breaks are instrumental in creating or retaining jobs.

Nationally, interpretation of econometric research is similarly mixed. Although many economists agree that tax *levels* overall affect business decisions about whether to locate or expand in a jurisdiction, studies give conflicting answers about the impact of tax *abatements*. In general, both tax levels and tax

abatement are more likely to influence a business' choice between neighboring municipalities than between two states, which may offer vastly different workforce factors and market opportunities.

Best Practice Review

Although experts disagree about the effectiveness of IDAs, there is surprising agreement about how existing IDAs ought to be administered. The best practices identified in this report are derived from the Government Finance Officers' Association (GFOA), a professional organization which serves municipal governments nationwide, the New York State Economic Development Council (NYSEDC), which represents IDAs, the Office of State Comptroller (OSC) and New York Authorities Budget Office (ABO), which audit or investigate complaints against IDAs, and several economists and urban planners.

Identification of a "best practice" in the context of a report such as this means that there has been a general consensus in scholarship and/or the field that such practices ought to be adhered to; it is for lawmakers and the public to review the supporting research, assess the particular needs of the community, and engage in informed discourse in order to determine which practices serve their jurisdiction's needs best.

Where a best practice set forth below is currently in place with the UCIDA, it is so noted.

Best Practice 1: Establish Project selection criteria. The UCIDA is the only IDA in the Mid-Hudson region to award assistance based on an objective and transparent point system.

Best Practice 2: Support only Projects which likely will not proceed *but for* IDA assistance. In order to minimize loss of tax revenue, IDAs should attempt to verify businesses' need for tax abatement.

Best Practice 3: Consider the extent to which Projects will compete with existing local businesses, producing a negative overall impact.

Best Practice 4: Perform a cost-benefit analysis as part of all Project approval decisions. The UCIDA application includes a cost-benefit analysis; in addition, UCIDA staff use informANALYTICS software to calculate the "ripple effect" of new business spending on the local economy. However, informANALYTICS does not estimate the cost of increased government services due to increased business activity. In addition, UCIDA has no method of distinguishing costs and benefits specifically attributable to IDA assistance and those which would accrue even without assistance.

Best Practice 5: Verify information presented in application. Although UCIDA does not systematically investigate all applicant claims, two mechanisms encourage truthful reporting. First, businesses which provide inflated employment projections may be required to repay tax abatements if they fall significantly short of their employment goals. Second, businesses are

arguably incentivized not to inflate capital investment estimates because they pay a percentage of their estimate as a fee to the UCIDA.

Best Practice 6: Provide for the recapture or termination of benefits when Projects fall substantially short of their goals. Recapture (“clawback”) provisions have been included in UCIDA Project Benefit Agreements since early 2013.

Best Practice 7: Monitor assisted Projects. The UCIDA’s staff visited every Project in 2013, and requests employment information annually.

In order to fully implement, and where in place, maximize, these best practices, and to promote local input and transparency, the following actions are recommended by this Office for consideration of adoption by the UCIDA and the Ulster County Legislature, where permitted by law:

1. Except where compelling, verifiable reasons in the record are worthy of exception, support only Projects which likely will not proceed but for IDA assistance. New application questions which may assist in this determination are listed in the full report.
2. For all retail and services Projects, require evidence that the Project will not draw customers away from existing Ulster County businesses. Market studies may provide such evidence.
3. When IDA assistance will alter only the scope, but not the viability of a Project, calculate the costs and benefits attributable only to those aspects of the Project that would not proceed but for IDA assistance.
4. In the PILOT Points Calculator (the objective matrix used by the UCIDA to determine eligibility and level of benefits), give points only for jobs which would not be created but for IDA assistance.
5. Interpret the cost-benefit analysis with care. The informANALYTICS cost-benefit analysis, used by the UCIDA and used widely elsewhere as well, should be supplemented with an understanding of potential cost increases for municipal services due to new business activity or development. Expert analysis of fiscal and economic ions by the applicant should be performed by consultants retained by the IDA and funded through applicant escrows to vet the reliability of those ions in appropriate cases.
6. Require proof of pre-assistance employment levels and ions of “no-assistance” performance levels.
7. Maximize public access to information.
8. Consider a scoring category for local support or opposition in the PILOT Points Calculator.
9. Consider requiring school district approval for residential Projects.

10. Specify dormitory and senior living housing approval criteria (presently the only category for which there are no specific criteria or levels of assistance set forth in the Uniform Tax Exemption Policy).
11. Comment on pending state reform legislation.
12. Be explicit in allowing the exercise of Board discretion beyond the objective criteria and in reflecting that such discretion may be used both in favor of, or in opposition to, a Project.

Note on Appendices: Appendix 1 shows how cost-benefit analyses should be interpreted differently for tax-incentivized Projects than for regular development Projects. Appendix 2 offers specific advice on use of informANALYTICS cost-benefit analyses.

INTRODUCTION

The Ulster County Industrial Development Agency (UCIDA) seeks to promote economic development by granting tax incentives to new or expanding businesses. Usually, its actions draw little public attention, but on occasion projects generate an outpouring of public support or opposition and become a topic of community debate. This study is intended to inform that debate. It presents the best research available on the effectiveness of tax abatement for job creation, and offers seven best practices for Industrial Development Agencies (IDAs). It recognizes the UCIDA for its implementation of many of these practices and recommends the adoption of others.

This report has multiple intended audiences. Ulster County citizens and elected officials may use it to better understand the UCIDA's purpose and practice, and hold it accountable to high standards of performance. The board and staff of the UCIDA may find in this report an outside perspective on their work and tools to strengthen their policies.

This report condenses information found in careful reading of the following documents:

- General Municipal Law Article 18-a (The New York State Industrial Development Agency Act)
- The UCIDA Uniform Tax Exemption Policy, Enforcement of Agency Projects Policy, PILOT Points Calculator, Uniform Tax Policy Matrix, and Application for Sale/Leaseback or Bond Transaction
- The UCIDA's 2013 Annual Report and additional Project information provided to County government at the Legislature's request
- Sample UCIDA Project applications, resolutions, and Project benefits agreements for five Projects approved since 2010
- The Uniform Tax Exemption Policies of IDAs in Erie County, New York City, and Mid-Hudson counties including Dutchess, Orange, Putnam, Rockland, Sullivan, and Westchester County
- Newspaper articles describing UCIDA Projects
- New York State Comptroller audits, annual reports, and studies of the state's IDAs
- Two studies of the job-creation impact of New York's IDAs: a 1998 study commissioned by Empire State Development (a state agency), and a 1996 study associated with the Fiscal Policy Institute (a longtime critic of IDAs)
- Articles published by economists and urban planners on property tax abatement programs throughout the United States
- The Government Finance Officers Association's approved Best Practices relating to economic development incentives
- IDA reform bills promoted by the Office of State Comptroller and New York Authorities Budget Office
- Model tax-abatement ordinances offered by the Government Finance Officers Association and the community advocacy group, Good Jobs First
- Cost-benefit analysis models used to assess potential IDA Projects, including the informANALYTICS model used by UCIDA and a separate model used by the New York City IDA.

In addition, six interviews were conducted with current and former UCIDA board members and staff, community business leaders, and state officials. We thank our interviewees for their time and insight.¹

NEW YORK'S INDUSTRIAL DEVELOPMENT AGENCIES

What are Industrial Development Agencies?

Industrial Development Agencies (IDAs) are public benefit corporations which use business tax incentives and financing to encourage economic development within the IDA's jurisdiction. IDAs have been part of New York's business landscape since 1969, when the New York State Legislature passed the Industrial Development Agency Act to "[prevent] unemployment and economic deterioration."² Almost every county has its own IDA³ and there are also village, town, and city IDAs, for a total of 112 in the state.⁴ Each Industrial Development Agency must be established by a separate act of the state legislature.

Through IDAs, businesses and nonprofits (the Project Sponsor) engaging in capital investment projects (Projects) can receive three kinds of tax breaks: exemption from mortgage recording taxes, exemption from sales taxes on all construction-related purchases, and exemption from property taxes. In addition to tax incentives, IDAs can issue tax-exempt bonds, a low-interest method of financing capital expenses. A Project receiving IDA benefits is said to have been "induced" by the IDA.

Property taxes are generally abated only on the increase in assessed value due to the IDA-supported Project. In other words, the tax revenue of an induced Project should not fall below its pre-IDA level. The

Through IDAs, the Project Sponsor can receive exemption from mortgage recording taxes, exemption from sales taxes on construction-related purchases, and exemption from property taxes.

abated property tax obligation is memorialized in a Payment in Lieu of Taxes (PILOT) agreement, under which the Project sponsor pays an agreed amount and waives the right to challenge the property's assessed value.

What Community Benefits Are Provided by IDAs?

The contemplated benefits to the jurisdiction are the presumed economic and fiscal impacts of the Project being sited or retained within the community. IDA Projects may be expected to create or retain jobs, provide needed services (such as healthcare, banking, or even groceries in areas with limited access to quality food products), refurbish or redevelop deteriorated properties, or increase the

¹ We note that this study is not an audit subject to Generally Accepted Government Auditing Standards (GAGAS).

² General Municipal Law Section 852.

³ Warren and Washington County share one IDA, as do the five counties of New York City [Office of State Comptroller, *Annual Performance Report on New York State's Industrial Development Agencies: Fiscal Year 2012*, (May 2014), 1].

⁴ Office of State Comptroller, *Annual Performance Report 2012*, 1.

jurisdiction's long-term tax base. Inherent in the IDA concept is the notion that such incentives are often necessary to maintain New York State's competitiveness in attracting and maintaining business which might never be realized or would be lost to other jurisdictions. New York's heavily taxed and heavily regulated business environment is perceived as creating a difficult model for business growth and retention.

How Does a Project Qualify for IDA Assistance?

The first step for a Project Sponsor seeking IDA assistance is typically to meet with IDA staff to determine whether a proposal meets threshold requirements. If so, staff will encourage the Project Sponsor to submit an application. The IDA board reviews the application and holds a public hearing. Projects are subject to the State Environmental Quality Review (SEQR) process, in which any agency issuing a discretionary approval to a Project may not act until a review of its environmental impacts has been completed. Where more than one agency has approval jurisdiction of some kind, one agency acts as the "lead agency" and the others are "involved agencies." The IDA typically acts as an "involved agency" under SEQR, making its decision on a Project after the lead agency has made a determination as to whether the Project may have significant adverse environmental impacts (the "determination of significance"), as opposed to doing its own SEQR review. The process culminates in a board resolution approving IDA assistance to the Project. To memorialize the obligations of the Project Sponsor and the IDA, a closing is held where multiple documents are executed including a Project Benefits Agreement, PILOT Agreement, sales tax exemption letter, and bond financing documents, as applicable.

How are Benefits Conferred Upon the Project?

In order to offer tax-exempt status to a private business, the IDA takes ownership of the business' property on paper, thus making it a "public" tax free property and Project, but assigns all legal responsibility for the business' operation to the Project Sponsor. In a non-bond transaction, the business' property is "sold" to the IDA, which leases it back to the original owners for one dollar. In a bond transaction, the IDA issues the bonds, but only the business owner is responsible for repaying them. (The IDA, municipality, or state will never be liable for debt of an IDA-assisted business). Because the IDA is the legal owner, the business becomes eligible for sales, mortgage, and property tax exemptions.

IDA Projects are subject to the SEQR process, and the IDA may not act until a review of the Project's environmental impacts has been completed.

How are the Operations of IDAs Governed?

State law requires a degree of transparency in IDA operations. Board members are appointed by the governing body of the county or town served by the IDA.⁵ No assistance of more than \$100,000 may be approved without a public hearing following ten days' notice to all affected tax jurisdictions.⁶ In awarding assistance, each IDA must follow its own Uniform Tax Exemption Policy (although this policy may contain a procedure for deviation).⁷ All IDA resolutions and agreements must be made available to the public, free of charge.⁸ The IDA issues annual reports on the Projects it supports showing the amount of tax exemptions granted and the number of jobs created and retained.⁹ These reports are collected by the New York Authorities Budget Office (ABO) and Office of State Comptroller (OSC).

THE ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

The UCIDA has seven board members, and utilizes the staff of the Ulster County Office of Economic Development (formerly the Office of Business Services) along with a legal consultant.

Current UCIDA Projects

The UCIDA has 37 existing Projects (under signed Project agreement) and as of the conclusion of research on this report, three pending Projects which have been approved by UCIDA resolution but not finalized with a Project agreement.¹⁰ The existing Projects are of many types. As classified by the UCIDA, there are nine manufacturing Projects, seven hospitality or tourism Projects, six medical services

During their review proceedings, Ulster County IDA Project Sponsors closed before 2013 promised to create or retain 4039 full-time jobs and actually employed 3,902 people, meeting 97% of their commitment.

Projects, six civic facilities (many of which also provide medical care), four credit union branches, two office parks, one food distributor, one electrical distribution Project, and one senior housing development.

On their applications to the UCIDA, the Sponsors of these Projects represented that their collective employment (jobs created and retained) post-IDA assistance would be the equivalent of 4,039 full-time jobs. In 2013, they actually employed 3,902 people, or 97% of the total promised. If one excludes Projects closed in 2013 (which may not have completed hiring yet), IDA-supported businesses promised to create and retain 3,695 jobs

⁵ General Municipal Law Section 857.

⁶ General Municipal Law Section 859-a.

⁷ General Municipal Law Section 874.

⁸ General Municipal Law Section 875.

⁹ General Municipal Law Section 859.

¹⁰ Existing Project count from "UCIDA Projects As of December 31, 2013" spreadsheet provided by UCIDA in response to Ulster County Legislature request for annual reporting. The UCIDA board has passed resolutions approving Ulster Commons (Town of Ulster), 14 Pine St./Blue Heaven Hosiery (Ellenville), and Park Point (New Paltz), but at the conclusion of research on this report, these Projects had not closed. Several Projects were approved assistance in multiple phases (for example Selux 1; Selux 2+3).

and actually created and retained 3,640 jobs, or 99% of the total promised. Both the UCIDA and the Project sponsors should be credited with this comparatively and objectively high level of job performance success.

In 2013, businesses supported by the UCIDA benefited from \$4,407,701 in property tax exemptions, but paid \$1,384,253 in payments in lieu of taxes for net exemptions of \$3,023,448.¹¹ From one perspective, Ulster County and its municipalities and school districts lost over \$3 million in revenue to IDA-supported businesses in 2013. From another, these jurisdictions received \$1.4 million in extra property taxes on commercial and industrial facilities that, without IDA support, might have remained derelict or underdeveloped properties accounting for correspondingly low tax revenues. This is the essence of the IDA debate on which this report seeks to provide taxpayers and policy makers objective tools for an informed discussion of the issues.

Certain project-by-Project data is given in Table 1.¹² Information as to IDA Projects is publicly accessible pursuant to the Freedom of Information Law (FOIL).

¹¹"UCIDA Projects Trailing Five Years As of December 31, 2013" spreadsheet provided by UCIDA.

¹² These numbers from "UCIDA Projects As of December 31, 2013" and "UCIDA Projects Trailing Five Years As of December 31, 2013" spreadsheets provided by the UCIDA in its annual report to the Ulster County government. They often differ from the numbers in the IDA's electronic annual report via the Public Authorities Reporting Information System (PARIS), but are reconciled in the PARIS notes section for each Project. PARIS automatically populates fields for original number of employees, estimated jobs to be created, and estimated jobs to be retained, and cannot be corrected by UCIDA according to one staff member.

Table 1: Current Projects of the Ulster County Industrial Development Agency

Project	Closing Date	Description	2013 Property Tax Exemptions	2013 PILOT	Jobs on Application	Current Jobs
346 Washington St.	3/1/2007	Medical Services	\$125,738	\$75,507	13	73
Amthor	7/15/2009	Manufacturing	N/A	N/A	39	30
Benedictine Hospital	11/3/2006	Civic facility	Nonprofit	Nonprofit	756	578
Central Hudson	12/23/2011	Electrical Distribution	4,940	4,940	6	0
Fort Shandaken Assoc./Spotted Dog/The Emerson	2/12/2007	Hospitality or tourism	187,846	77,911	86	96
Frito-Lay	5/28/2004	Food Distribution Services	34,185	17,235	63	77
Gardiner Library	11/14/2007	Civic facility	Nonprofit	Nonprofit	5	3
Gateway	11/15/1994	Civic facility	Nonprofit	Nonprofit	492	281
Golden Hill Nursing and Rehabilitation Center	6/26/2013	Civic facility	170,000	0	290	262
Hudson River Valley LLC/N.E. Center for Special Care	3/31/1998	Medical Services	1,105,278	363,001	383	328
Hudson Valley Domicile/Hudson Valley Sportsdome	6/29/2004	Hospitality or tourism	52,938	31,786	16	3
JimLee/Elna Magnetics	3/16/2009	Manufacturing	58,681	9,699	69	61
Kingston Hospitality/Hampton Inn	11/20/2006	Hospitality or tourism	239,421	137,667	30	27
Kingston Regional Sr Living/Woodland Pond	10/31/2007	Senior Housing	1,184,540	265,000	115	177
LaSalle Benedictine	3/31/2004	Medical Services	98,567	48,409	73	67
LaSalle New Paltz	5/31/2005	Medical Services	135,203	9,350	71	113
Lloyd Park 1	12/30/2004	Office Services	24,083	13,584	20	41
Lloyd Park 2	12/31/2005	Office Services	20,677	11,632	66	58
MHMG-KM Kingston (Mid-Hudson Medical Group)	3/19/2013	Medical Services	408,918	0	54	0
MHVFCU (Kingston)	12/23/2002	Finance	63,902	33,742	7	16
MHVFCU (Lloyd)	4/30/2005	Finance	25,923	16,679	8	12
MHVFCU (Port Ewen)	2/28/2011	Finance	23,206	1,218	7	7
MHVFCU (Saugerties)	12/1/2004	Finance	26,703	15,941	10	11
Mid-Hudson Family Health/Inst. for Urban Family	8/13/1998	Civic facility	Nonprofit	Nonprofit	61	157
Partition Street/Diamond Mills Hotel	12/31/2010	Hospitality or tourism	15,976	15,976	30	68
PSH Development/Emurgent Care	9/2/2010	Medical Services	42,895	9,307	10	11
Saint Clara's Church of God	6/29/2006	Civic facility	Nonprofit	Nonprofit	35	1
Selux 1	12/10/2001	Manufacturing	71,334	56,795	158	167
Selux 2 + 3	6/22/2004	Manufacturing	*	*	*	*
Simulaids	7/1/2005	Manufacturing	86,308	48,914	113	143
Smiley Brothers 1/Mohonk Mountain House	11/12/2003	Hospitality or tourism	52,964	26,559	470	589
Stavo	12/20/2012	Manufacturing	**	**	51	66
Tee Bar/Rocking Horse Ranch	7/10/2009	Hospitality or tourism	16,844	0	248	204
TLB Management/Skatetime 209	9/12/2005	Hospitality or tourism	19,108	10,316	35	2
Viking 1	12/9/1998	Manufacturing	PILOT expired	PILOT expired	75	75
Viking 2	12/9/2005	Manufacturing	95,981	83,085	*	*
Wolf-tec	12/20/2012	Manufacturing	15,542	0	74	98
Totals			\$4,407,701	\$1,384,253	\$4,039	\$3,902

*Data included in figures for Project's first phase. **Data missing in UCIDA report.

Sources: "UCIDA Projects As of December 31, 2013" and "UCIDA Projects Trailing Five Years As of December 31, 2013" spreadsheets provided by the UCIDA; UCIDA Annual Report for FY Ending 2013

THE IDA DEBATE

Does Property Tax Abatement Create Jobs?

There is a spirited public policy debate as to whether tax abatement encourages businesses to create or retain a materially greater number of jobs. Much of the debate can be reduced to one question: Does tax abatement change a business' plans to establish or maintain operations in the IDA's jurisdiction, or does it merely improve the business' bottom line?

Opponents of property tax abatement believe the abatement typically does not change business decisions, and in most cases the tax abatement is simply revenue foregone by the host municipality.

Opponents of property tax abatement argue the abatement does not change business decisions, and is simply revenue foregone by the host municipality. Proponents argue that abatement makes a difference in the business' decision by convincing a business to choose one location over another, or enabling it to expand its facilities.

Proponents believe abatement usually makes a difference in the business' decision; a significant tax abatement may convince a business (and its investors and lenders) to choose one location over another, or may enable it to expand its facilities. In addition, when the business builds a new plant or expands an existing one,

taxes are typically abated only on the added property value. Supporters of property tax abatement thus argue that tax abatement on new capital investment actually expands the tax base and increases municipal revenue overall. Businesses assisted by IDAs usually make payments in lieu of taxes (PILOTs), a better deal for their host government than *no expansion* and *no new revenue*. The partial tax payment, one economist points out, is like a partially filled water glass: tax-abatement opponents say the glass is half-empty, and supporters say the glass is half-full.¹³

Two methods are commonly used to assess the extent to which property tax abatement makes a difference in business plans about location or expansion: surveys and econometric analysis.

Surveys

One way to assess IDA impact on Project decision making is simply to ask business owners via a survey. In the mid-1990s, two groups of researchers completed such surveys in New York State, asking businesses owners who had received IDA assistance what they would have done without the assistance. They drew different conclusions.

¹³ Robert Wassmer, "The Increasing Use of Property Tax Abatement As a Means of Promoting Subnational Economic Activity in the United States," 2007. Available at Social Science Research Network, <http://ssrn.com/abstract=1088482>.

The first study, conducted by the nonprofit Center for Governmental Research on behalf of the Empire State Development Agency, surveyed 516 developers who received IDA assistance in 1994 or 1995. Of 192 respondents, 21% would have cancelled their Project, 9% would have located out of state, 45% would have delayed or scaled back their Project, 5% would have located elsewhere in New York, and 20% would have built the same Project in the same location.¹⁴ The Center for Governmental Research concluded that there is an “inevitable ‘leakage’ of public money...with any economic development assistance,” but that the majority of IDA funding succeeded in inducing new capital investment that otherwise would not have occurred.¹⁵

In the second study, economists sponsored by the nonprofit Fiscal Policy Institute noted that between 1977 and 1986, only 23 recipients of IDA assistance were firms relocating to New York (rather than existing New York firms.) Half were out of business by 1994, when the survey took place. Seven of the remaining eleven firms responded to the survey, and just two “stated that tax incentives played a role in their decision to relocate to New York State.” These researchers also surveyed businesses using IDA assistance to continue existing operations in New York. Seven of 22 responding firms “stated that their Projects would not have gone forward” without IDA assistance. The Fiscal Policy Institute-sponsored researchers concluded that “IDA benefits are unlikely to spur economic growth.”¹⁶

Interestingly, although the researchers who conducted the two studies reach different conclusions and worked with different sample sizes, the raw data collected by each is similar: in each, only about one third of Project Sponsors said their Projects would not have gone forward without IDA assistance. The difference in conclusions may be related to the pre-existing bias of the researchers or their sponsors or their differing interpretation of one particular category of response in the Center for Governmental Research study. Recall that 45% of respondents would have delayed or scaled back development without IDA assistance. Are these responses of delays or scale-backs serious? If so, the scale-back category may be combined with the “would have cancelled Project” category, and it seems a majority of Projects would not have gone forward but for IDA assistance. If the scale-backs were minor in nature, the “scale-back” category may be added to the “would have built the same Project in the same location” category, showing that for a majority of Projects, IDA assistance made little difference in the ultimate economic development impact.

¹⁴ Center for Governmental Research, “Evaluation of New York State Industrial Development Agencies” (prepared for Empire State Development Agency, April 1998). Survey completed by Mount Auburn Associates. The paper gives conflicting numbers for the total number of survey respondents: 152 respondents (page 19) or 212 respondents, of whom 192 answered this question (page 37).

¹⁵ Center for Governmental Research, “Evaluation of New York State Industrial Development Agencies,” ii.

¹⁶ Robert Lynch, Gunther Fishgold, and Dona Blackwood, “The Effectiveness of Firms-Specific State Tax Incentives in Promoting Economic Development: Evidence from New York State Industrial Development Agencies,” *Economic Development Quarterly* Vol. 10(1) (1996): 62-63.

Econometric Analysis

The second method to evaluate the impact of tax incentives is econometric analysis, a type of statistical analysis used to describe cause and effect. It is relevant here because the goal is to determine how much business investment is caused by tax incentives, and how much would have occurred anyway. One common econometric method is to compare business investment in areas offering tax abatements to investment in areas that are similar in all other respects but do not offer tax abatements. If there is more investment in one area, the assumption is that it is caused by the tax abatement.¹⁷ Because 42 states offer some form of property tax abatement as an economic development incentive, dozens (if not hundreds) of studies have investigated these incentives' impact.

Unfortunately, interpretations of the econometric studies have produced conflicting conclusions. For example, a study comparing Atlanta, Georgia census tracts found those tracts offering commercial and manufacturing tax abatement created 80 more jobs per year than parcels/Projects without abatement.¹⁸ But a study in El Paso, Texas could find no connection between changes in abatement levels and changes in economic activity.¹⁹ The authors of a review of econometric studies of property tax abatement conclude: "The upshot...is that on [the] most basic question of all—whether incentives induce significant new investment or jobs—we simply do not know the answer."²⁰

Although the research on the specific impact of property tax *abatement* programs on business decision-making is mixed, many scholars give credence to a 1991 study of business and property tax *levels* in general on such business decisions.²¹ Based on a thorough review of all previous research, the author concluded that a 1% increase in business tax rates from one state to the next decreased business activity by 0.15%. The effect of property tax differences within states was five to ten times greater: a 1% increase in property taxes over neighboring states decreased business activity by 1.59% to 1.95%.²² Scholars draw three conclusions from this data. First, a difference in property tax rates is more likely to influence a business' decision between

¹⁷ For example, see Table 5.1 in Daphne Kenyon, Adam Langley, and Bethany Paquin, "Rethinking Property Tax Incentives for Business" (Policy Focus Report prepared for Lincoln Institute of Land Policy, Cambridge, Mass., 2012): 46.

¹⁸ Bollinger and Ihlanfeldt, "The intraurban spatial distribution of employment," 2003, as described in Wassmer, "The Increasing Use of Property Tax Abatement," 2007.

¹⁹ Fullerton and Aragonés-Zamudio, "El Paso Property Tax Abatement Ineffectiveness," 2006 as described in Wassmer, "The Increasing Use of Property Tax Abatement," 2007.

²⁰ Alan Peters and Peter Fisher, "The Failures of Economic Development Incentives," *Journal of the American Planning Association* 70(1) (2007): 32.

²¹ Kenyon, Langley, and Paquin (2012, 26) write, "an examination of studies done between 1990 and 2011 suggests that the best literature reviews on this issue are still Bartik (1991) and Wasylenko (1997)...." Wassmer (2007, 27) writes that the conclusions of Bartik (1991) "are now accepted by the majority of economists working in the area."

²² Bartik, "Who Benefits from State and Local Economic Development Policies," 1991 as described in Wassmer, "The Increasing Use of Property Tax Abatement," 27-28.

municipal locations than between states.²³ Second, if property tax levels make a difference, it is logical to conclude that the availability of property tax abatement would also make a difference.²⁴ Therefore, property tax abatement is likely to make some difference in inter-state location decisions and a larger difference in the choice between neighboring municipalities.²⁵

What do the Studies Reveal?

To summarize the findings of both survey and econometric studies of tax abatements' effectiveness at creating jobs, the truth is likely somewhere between two possible extremes. Tax abatement is sometimes a deciding factor in a business location or expansion decision, but not always; tax abatements are sometimes, but not always, given unnecessarily. This places a high premium on the IDA's discretion and due diligence, as will be discussed below.

Does Property Tax Abatement Erode Tax Revenue?

From the perspective of any individual municipal government, it seems almost obvious that it is often prudent to offer a property tax abatement program in order to compete with neighboring municipalities. In the larger perspective, however, does inter-municipal competition ultimately erode tax revenue in interdependent jurisdictions? At least one economist argues "the termination of all United

In public policy debates, a distinction should be made between tax abatement affecting location and tax abatement to influence business expansion.

States abatement would result in an annual property tax revenue increase very close to the annual dollar value of abatements offered across the country [emphasis added]," leading some "commentators... [to call for] a federal moratorium on state and

local abatement."²⁶ An important qualification to this argument is that property tax abatements may theoretically influence business decisions not only as to location, but also as to the size of the business venture. For businesses that truly would not expand "but for" the tax abatement, the abatement creates a net gain in terms of revenue, jobs, and capital resources to the local and national economy, ie. one municipality's gain is not another's loss. In public policy debates, a distinction should be made between tax abatement affecting *location* and tax abatement to influence business *expansion*.

²³ Wassmer, "The Increasing Use of Property Tax Abatement," 28.

²⁴ Fisher and Peters, "The Failure of Economic Development Incentives," 29.

²⁵ However, there is some evidence that high levels of municipal service make up for high property tax levels. The authors of a later study concluded that "a 10% cut in state and local taxes results in a 4.48% increase in regional economic activity in studies with the public service control variable, and 2.16% in studies that do not account for differences in public services." Phillips and Goss, "The Effect Of State and Local Taxes on Economic Development: a Meta-Analysis," 1995, described in Kenyon, Langley, and Paquin, "Rethinking Property Tax Incentives for Business," 28.

²⁶ Robert Wassmer, "Property Tax Abatement As Tax Expenditure?" *Public Finance and Management* 14 (1), 2013. The argument assumes property tax levels are not be a significant factor in international business location decisions.

Arguments For and Against Property Tax Abatement as a Business Incentive

In Favor:

- Local tax abatements are necessary to attract business to areas with high state or local tax rates or burdensome regulations
- Tax abatements can be used to direct business investment to areas with high poverty or unemployment
- The ability to offer tax abatement helps local governments proactively court new businesses and shape their local economies
- Tax abatements on added property value ultimately expand the property tax base

Against:

- Higher tax rates do not necessarily discourage business siting because higher tax locations often provide better infrastructure
- Factors such as wages, workforce education, and local regulations affect business location decisions more than property tax levels
- Tax abatements to some businesses are unfair to others
- Jurisdictions will compete with each other to offer the best tax abatement deal, eroding tax revenue in all jurisdictions.

Source: Robert Wassmer, "The Increasing Use of Property Tax Abatement As a Means of Promoting Subnational Economic Activity in the United States," 2007. Available at Social Science Research Network, <http://ssrn.com/abstract=1088482>.

BEST PRACTICES FOR INDUSTRIAL DEVELOPMENT AGENCIES

While the ultimate impact of IDA incentives is subject to debate, the fact is that 112 IDAs are currently operating in New York State, and the Ulster County Industrial Development Agency (UCIDA) is among them. This section puts aside the question of whether IDAs should exist, and asks instead how existing IDAs can be most effective. There is remarkable consensus about best practices for IDAs specifically, and for property tax incentives in general.

In defining best practices, this section draws on advice from the New York State Economic Development Council (NYSEDC), which advocates for the interests of IDAs; the New York Office of State Comptroller (OSC), which audits IDAs; the New York Authorities Budget Office (ABO), which investigates complaints against IDAs; the national Government Finance Officers Association (GFOA), which serves, among other groups, municipal government leadership; and several economists.

Best Practice 1: Use Project selection criteria.

NYSEDC recommends, and the IDA reform bills advanced by the OSC and ABO would require, that IDAs develop Project selection criteria.²⁷ Clear selection criteria create a rational basis for all Project approval decisions and can increase public trust in the Project selection process. NYSEDC suggests these Project selection criteria be informed by an understanding of the economic sectors that thrive or struggle in the local community, and reflect the community's overall economic development strategy.²⁸

State law already requires every IDA to adopt its own Uniform Tax Exemption Policy (UTEP) describing the types of Projects eligible for tax exemptions and the amount and time period of exemption. However, few IDAs tailor their eligibility criteria beyond the basic prohibitions under state law on some retail goods and services businesses and on businesses "pirated" from other regions of the state.

UCIDA Implementation of Best Practice 1, *Use Project selection criteria.*

The Ulster County Industrial Development Agency is the only IDA in the Mid-Hudson region to award IDA assistance based on an objective point system.²⁹ Under the UCIDA's Uniform Tax Exemption Policy and PILOT Points Calculator, applicants receive points in seven categories: job creation, job retention, wage levels, construction hiring practices, environmental sustainability, community investment, and workforce investment. The total score determines whether a Project is accepted and whether it receives a more or less generous benefit level among the three tiers of PILOT schedules.

Compared to neighboring counties, where vague or unspecified criteria leave IDA boards wide discretion, the UCIDA stands out for its transparent, objective selection policies.

The UCIDA PILOT Points Calculator reflects local economic development strategies in a small way, by granting one additional point for "needed industr[ies] or service[s] in the local economy – as defined by [an] Ulster County or local economic development plan."³⁰

However, Category 5 of UTEP Projects does not require a PILOT Point Calculator, a practice we recommend be amended.

²⁷ NYSEDC, "IDA Recommended Practices," available at <http://nysedc.org/images/stories/downloads/ida%20recommended%20practices%20report.pdf>; New York Senate Bill 5551 of 2013, Section 2; New York Assembly Bill 9773 of 2014, Section 8.

²⁸ NYSEDC, "IDA Recommended Practices."

²⁹ Uniform Tax Exemption Policies were inspected for Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester County IDAs.

³⁰ UCIDA Uniform Tax Policy Matrix.

Best Practice 2: Support only Projects which likely will not proceed *but for* IDA assistance.

As described above, 20% of IDA-assisted businesses surveyed by the Center for Government Research in the 1990s acknowledged after being approved for assistance that they would have built the same Project in the same place even without IDA assistance. Some researchers argue that up to two thirds of IDA Projects would go forward without assistance.³¹ Unnecessary tax abatements drain local revenues. To the best of their ability, IDAs should target their tax benefits to Projects that will not otherwise occur. If a Project will not go forward without IDA assistance, it is said to pass the “but for” test. The “but for” test is recommended by NYSEDC, GFOA, and some economists and urban planners, and would be required by the OSC’s pending IDA reform bill.³²

Uniform Tax Exemption Policies can require Projects to pass the “but for” test. For example, the New York City IDA’s Uniform Tax Exemption Policy (UTEP) includes an inducement requirement that “*but for* the financial assistance being offered by the agency to a recipient, [the] Project would most likely not be undertaken...or, if undertaken at all, the Project might occur at a substantially reduced level or...outside of the state [emphasis added].”³³

The NYSEDC recommends that “company claims relating to the necessity for IDA assistance... be verified to the extent possible.” NYSEDC suggests IDA staff use a Project review checklist on which they answer the questions, “Is IDA assistance required for this Project to be successful? Would this Project proceed without IDA assistance? Explain and list documentation reviewed.”³⁴ Documentation could include submission of *pro formas* with and without IDA assistance, and some documenting evidence of the Project sponsor’s pursuit of alternative locations.

Any business seeking IDA assistance will likely put forward a convincing argument that assistance is necessary to meeting its *pro formas*, but this is not the same as being necessary to the Project’s viability. An attempt to assess the viability and likelihood of the Project without IDA assistance can reduce the “leakage” of tax expenditure to Projects that do not need it. Moreover, the requirement that the Project sponsor make the case publicly and in its sworn application documents should act as a natural “filter” of Projects seeking the assistance, narrowing the applications to those capable of making such a case.

³¹ Lynch, Fishgold, and Blackwood, “The Effectiveness of Firm-Specific State Tax Incentives,” 62-63.

³² Gary Sands, Laura Reese, and Heather Kahn, “Implementing Tax Abatements in Michigan: a Study of Best Practices,” *Economic Development Quarterly* 2006 Vol. 20(1), 54; Wassmer, “The Increasing Use of Property Tax Abatement,” 40; “GFOA Best Practice: Developing an Economic Development Incentive Policy,” 2008, available at www.gfoa.org; NYSEDC, “IDA Best Practices;” New York Senate Bill 5551 of 2013, Section 2.

³³ Third Amended and Restated Uniform Tax Exemption Policy of the New York City Industrial Development Agency (approved August 2010). Available at <http://www.nycedc.com/nycida>.

³⁴ NYSEDC, “IDA Recommended Practices.”

UCIDA Implementation of Best Practice 2, *Support only Projects which likely will not proceed but for IDA assistance.*

The UCIDA does not condition financial assistance on a “but for” test. There is no question in the application, criteria in the UTEP, or systematic attempt by the board to screen out Projects likely to proceed regardless of IDA assistance.³⁵ This increases the risk that Ulster County and its sub-jurisdictions unnecessarily forego tax revenue from IDA Projects.

Best Practice 3: Consider whether Projects will compete with existing local businesses.

The state law governing Industrial Development Agencies prohibits assistance to businesses selling goods or services to “customers who personally visit such facilities.”³⁶ This is often called the “retail prohibition,” a misleading term, because “retail” usually refers only to sales of goods. The prohibition also covers services, including hotels and medical offices.³⁷ Nevertheless, for the sake of consistency, we will use the term here.

State law allows several exceptions to the “retail” (and services) prohibition. IDAs may provide assistance to tourist destinations, including shopping centers with regional draw; purveyors of “goods or services which would not, but for the Project, be reasonably accessible” in the locality; and Projects proposing to locate in a “highly distressed area.”³⁸

State law prohibits assistance to businesses selling goods or services to “customers who personally visit such facilities, sometimes referred to as the “retail exception”.

There are two strong economic arguments against IDA assistance to companies seeking to sell goods or services to the local market. First, such businesses will be

competing for the same local customer base, and will siphon customers (and jobs) away from established businesses. For this reason, the OSC has noted that “providing tax expenditure benefits for these ‘jobs-neutral’ types of economic activity generally results in a net financial loss for the community.”³⁹ Second, businesses that rely on a local market are less likely to pass the “but for” test, since they could not conceivably locate elsewhere.⁴⁰ By contrast, businesses that export their products

³⁵ The UCIDA Application for Sale/Leaseback or Bond Transaction includes the following question in regards to retail Projects only: “Would the Project occupant, but for the contemplated financial assistance from the Agency, locate the related jobs outside the State of New York?” [Part II, Question F(5)(c)].

³⁶ General Municipal Law Section 862. The prohibition applies to IDA Projects where “more than one third of the total Project cost” would assist such activity.

³⁷ Office of State Comptroller, “Industrial Development Agencies in New York State: Background, Issues, and Recommendations,” 2006, 10.

³⁸ General Municipal Law Section 862.

³⁹ OSC, “IDAs in New York State,” 10.

⁴⁰ Wassmer, “The Increasing Use of Property Tax Abatement,” 2007.

or services out of the region draw outside money into the local economy, and could usually locate elsewhere.⁴¹

There are also good economic reasons for the exceptions to the “retail” prohibition. The exception for tourist destinations recognizes that tourist money comes from outside the local region, just like the revenues of a typical manufacturer. In a sense, both are export businesses (in some economic jargon, they are part of the “traded sector”). The exception for underprovided goods or services recognizes that the provision of a new and necessary kind of service to a local community will improve consumer welfare and will not directly compete with existing businesses. The final exception, for Projects in “highly distressed areas,” recognizes that tax incentives can be tools to address inequality, by redistributing business investment to areas that are often neglected.

Even businesses that seem to fit one of these exceptions may be unwise targets for IDA assistance. For example, hotels primarily serve tourists, and may be seen as a conduit for outside money into the local economy. However, when the hotel room market reaches a certain saturation point, the primary effect of a new hotel may be to harm existing hotels, or to simply redistribute the rented rooms among a larger number of hotels. In another example, medical services may be underprovided in some places, but in places where residents’ medical needs are already met by existing providers, subsidies for new medical facilities simply redistribute patients among facilities.

In an attempt to prevent indiscriminate use of exceptions to the “retail” (and service) prohibition, state law adds one final requirement: the IDA must find that assistance will “[preserve] permanent, private-sector jobs or [increase] the overall number of permanent, private-sector jobs in the state.”⁴² Unfortunately, the OSC has found that IDAs overuse the “retail prohibition” exceptions, making unwise use of tax expenditures.⁴³ Addressing this situation, the ABO’s IDA reform bill would prohibit all assistance that may place existing businesses at a competitive disadvantage.⁴⁴

IDAs should require market studies showing significant unmet demand for the products or services of any applicant who might compete with existing local businesses.

⁴¹ However, local businesses that can offer highly-demanded products or services that would otherwise be purchased from outside of the region should also qualify for assistance; these provide “import substitution” in economic jargon, bringing money currently spent elsewhere back home.

⁴² General Municipal Law Section 862(c).

⁴³ OSC, “IDAs in New York State,” 10.

⁴⁴ New York Assembly Bill 9773 of 2014. The GFOA also recommends “analysis of the impact of the on existing businesses” (“GFOA Best Practice: Developing an economic development incentive Policy,” 2008, available at www.gfoa.org.)

UCIDA Implementation of Best Practice 3, *Consider whether Projects will compete with existing local businesses.*

Of the fourteen Projects UCIDA approved in the last five years (since the beginning of 2009), eight serve customers who “personally visit [their] facilities.”⁴⁵ These eight Projects redeveloped blighted property (Mid-Hudson Medical Group and Ulster Commons), established a credit union in a community with no bank (Mid-Hudson Valley Federal Credit Union—Port Ewen), supported the County’s privatization of the Golden Hill Nursing Home, and created or expanded tourist facilities (Diamond Mills Hotel and Rocking Horse Ranch). The recently approved Park Point Project will provide student housing for SUNY New Paltz.

Although each Project serves a defensible economic development goal, some may simultaneously be harming local competitors. The UCIDA currently lacks clear guidelines to ensure it funds only Projects which will primarily increase, rather than redistribute, economic activity within the County. Application Question II, Part F (6) asks whether the Project will “preserve permanent, private-sector jobs or increase the overall number of permanent, private-sector jobs in the state of New York,” but no proof is required; further, the UCIDA Uniform Tax Exemption Policy and PILOT Points Calculator do not consider the effect of IDA Projects on existing business. The UCIDA is at risk of being bound by its own policies to subsidize one business at the expense of another.

Best Practice 4: Perform a cost-benefit analysis as part of all Project approval decisions.

Cost-benefit analyses predict a decision’s impact on the economy (economic impact) and the government’s budget (fiscal impact), and occasionally they attempt to put a dollar value on social and environmental costs and benefits as well. Economists, NYSEDC, and GFOA recommend cost-benefit analysis of all proposed tax incentives, and IDA reform bills of the ABO and OSC would require cost-benefit analysis prior to IDA Project approval.⁴⁶

In many cases, IDA assistance changes the scope of a Project. In these cases, only a portion of the Project’s costs and benefits are attributable to IDA assistance, and it can be argued that only this portion should be considered in the cost-benefit analysis. The Ulster County Comptroller’s additional comments on interpretation of cost-benefit analysis are found in Appendix 1.

⁴⁵ The “retail prohibition” expired from state law in 2008 and was reinstated in 2013, but the UCIDA should be guided by the economic principles behind the “retail prohibition” as a best practice even if and when the law is not in effect.

⁴⁶ Wassmer, “The Increasing Use of Tax Abatement,” 40; NYSEDC, “IDA Best Practices;” “GFOA Best Practice: Evaluating and Managing Economic Development Incentives,” 2014, available at www.gfoa.org.

Economic Impact

Economic impact analyses are generally done for a defined local area, which may be a town, county, region, or state. Once the boundaries of the area are defined, it is possible to estimate how much Project spending will happen locally. Each dollar spent locally by the IDA Project counts as direct economic impact. An IDA Project may contribute directly to the local economy by hiring local construction workers, paying wages and salaries to permanent local employees, and purchasing from local vendors. These benefits will be offset by any decrease in business activity by the Project’s local competitors.

In addition to direct impact, Projects will have induced and indirect impact. When the Project’s employees spend their paychecks, a portion will also be spent locally; this is the “induced” economic impact. Similarly, local vendors serving the IDA Project are in turn able to spend more on local products and services, producing the "indirect" economic impact. The number of times each direct dollar recirculates through the local economy is called a “multiplier.” Several national firms calculate multipliers specific to every industry and region, and their data can be purchased for use in economic impact analysis.

Table 2: Direct Economic Impact Factors

Benefits	Costs
Income of local employees	Loss of business to any competing local companies
Business' ongoing spending at local suppliers	
Local hiring of temporary construction workers	
Local purchase of construction materials and capital equipment	

Fiscal Impact

The fiscal impact of an IDA Project includes PILOT payments, sales taxes paid after the exemption period, income tax paid by Project employees, business income taxes, and any taxes paid as a result of the Project’s induced and indirect economic impact. These benefits are offset by the cost of any increased government services due to increased economic activity and possible associated population increase.

Most cost-benefit analysis frameworks list foregone property, sales, and mortgage tax revenues as fiscal costs offsetting fiscal benefits.⁴⁷ To foreshadow an argument about cost-benefit analysis made in Appendix 1, tax abatement is given its own table here.

⁴⁷ This method is used by informANALYTICS; the New York City IDA’s cost-benefit analysis; and Kenyon, Langley, and Paquin, “Rethinking Property Tax Incentives for Business,” 2012.

Table 3: Fiscal Impact

Benefits	Costs
PILOT payments	Increased municipal services required by increased business activity and any new residents attracted by increased business activity
Sales tax paid by IDA Project after exemption ends	Lost revenue due to substitution of economic activity away from existing businesses
Income tax paid by Project employees	
Business income taxes	
Increased sales, income, and business income taxes generated by induced and indirect economic activity	

Table 4: Total Tax Abatement

Costs
Net property tax exemptions (Tax exemption minus PILOT)
Sales tax exemptions
Mortgage tax exemptions

UCIDA Implementation of Best Practice 4, *Perform a cost-benefit analysis as part of all Project approval decisions.*

The UCIDA Application requests detailed information about Projects’ potential direct economic and fiscal costs and benefits. In addition, the UCIDA uses the informANALYTICS software created by the Rochester-based Center for Governmental Research and promoted by the New York State Economic Development Council to predict indirect and induced costs and benefits. Ulster County Office of Economic Development staff prints the informANALYTICS report for every UCIDA board member. The UCIDA stands out as an early user of this software, which was released in 2012.

The informANALYTICS program has certain capabilities and limitations. Among its strengths, it is designed specifically for New York IDAs, and uses customized data for the sales and property tax

rates in each municipality, county, and school district. In addition, informANALYTICS

The commonly utilized informANALYTICS program has limitations.

uses data specific to each region and each industry (as classified by the North American Industry Classification System) to calculate the ripple effect of spending by a business on the local economy. For example, the software can predict the economic impact of a telecommunications

business on Westchester County, or the impact of a computer and electronics manufacturer on Erie County.

Among its limitations, informANALYTICS does not estimate the cost of increased government services due to increased business activity.⁴⁸ These costs are a chief concern in any development proposal, and they figured prominently in public opposition to the UCIDA’s recently approved Park Point student housing Project. In the case of Park Point, the developer and the Town of New Paltz each commissioned their own studies, but in most cases, the UCIDA board can only rely on the estimates provided by the Project applicant.

In its current application materials, UCIDA has no method of distinguishing costs and benefits specifically attributable to IDA assistance and those which would accrue even without assistance.

Best Practice 5: Verify information presented in application.

IDAs should take steps to verify the data and assumptions presented in each application for financial assistance.⁴⁹ Such verification is recommended by the GFOA and the NYSEDC and would be required under the OSC’s IDA reform bill.⁵⁰

Proof of employment levels *before* IDA assistance should be gathered, to enhance the reliability of future data on job changes due to IDA assistance.⁵¹

In addition, the IDA should assess the reasonableness of figures for projected job creation and capital investment through the use of expert analysis performed for the IDA. It may wish to perform a sensitivity analysis, asking how sensitive projected outcomes are to changes in assumptions. For example, what sales threshold is necessary for the Project to succeed? What is the likelihood that sales will fall below that threshold?⁵²

The IDA should assess the reasonableness of figures for projected job creation and capital investment through the use of expert analysis performed for the IDA.

UCIDA Implementation of Best Practice 5, *Verify information presented in application.*

The UCIDA requires that applications be accompanied by

⁴⁸ An informANALYTICS representative indicated that it would be cost-prohibitive to develop customized cost-of-municipal-services models for their clients, and that the economic development professionals they serve usually are less concerned with calculating these costs than are planning professionals.

⁴⁹ “GFOA Best Practice: Evaluating Data and Financial Assumptions in Development Proposals,” 2013, available at www.gfoa.org.

⁵⁰ NYSEDC, “IDA Recommended Practices;” New York Senate Bill 5551 of 2013.

⁵¹ NYSEDC, “IDA Recommended Practices.”

⁵² “GFOA Best Practice: Assessing Risk and Uncertainty in Economic Development Projects”

“the most recent (3) years of audited financial statements of the applicant and a written business plan.”⁵³

In addition, two mechanisms encourage accurate representations of future employment and capital investment. Since 2013, Project Benefit Agreements have included “clawback” (or “recapture”) provisions requiring assisted businesses to repay abated property taxes if employment goals or other promised benefits are not met. Businesses are thus, arguably, incentivized to offer accurate employment ions during the application review phase. In addition, the IDA charges all Projects a fee equal to 1% of Project costs. Any business that offered excessively high ions of its capital investment in the community would have to pay an inflated fee, as well.

Best Practice 6: Provide for the recapture or termination of benefits when Projects fall substantially short of their goals.

The NYSEDC, OSC, GFOA, and multiple economists recommend that tax incentive contracts include clawback provisions.⁵⁴ Clawbacks shift some of the risk of the economic development deal from the taxing jurisdiction to the business receiving assistance.⁵⁵ When a business could be subject to clawback, it will be more careful to provide accurate employment and investment ions. In a sense, having a clawback provision is one way for an IDA to increase the reliability of the numbers provided by the applicant and reduce the burden on IDA staff and board members to verify these numbers.

UCIDA Implementation of Best Practice 6, *Provide for the recapture or termination of benefits when Projects fall substantially short of their goals.*

The UCIDA Enforcement of Agency Projects Policy provides that "all or a portion of the financial assistance provided by the UCIDA" can be terminated or recaptured if fewer than 80% of the ed jobs have been retained or created after three years, or if the Project has "not substantially achieved its construction, expansion or services goals after three years from closing." In addition, clawback provisions have been included in UCIDA Project Benefit Agreements since early 2013, a practice for which the UCIDA is to be applauded.

⁵³ UCIDA Application, 2.

⁵⁴ NYSEDC, “IDA Recommended Practices;” New York Senate Bill 5551 of 2013; “GFOA Best Practice: Performance Criteria as a Part of Development Agreements,” 2013, www.gfoa.org; Wassmer, “The Increasing Use of Tax Abatement,” 43; Rachel Weber, “Do Better Contracts Make Better Economic Development Incentives?” *Journal of the American Planning Association* 68 (1) 2002.

⁵⁵ Weber, “Better Contracts;” “GFOA Best Practice: Performance Criteria.”

Best Practice 7: Monitor assisted Projects.

The GFOA, OSC, and NYSEDC recommend monitoring the performance of incentivized Projects.⁵⁶ IDAs are already required to collect annual employment information from all Projects, and salary data from all Projects approved since 2009.⁵⁷ The OSC recommends that IDAs have policies to “hold businesses accountable if they [do] not comply with reporting requirements or meet employment goals.”⁵⁸ To aid in the verification of employment levels, the OSC’s IDA reform bill would require Project Benefit Agreements to give IDAs access to Projects’ payroll records.⁵⁹

UCIDA Implementation of Best Practice 7, *Monitor assisted Projects.*

The UCIDA’s Enforcement of Agency Projects Policy requires UCIDA to monitor existing Projects by visiting the site at least every two years, inspecting payroll-related documents such as proof of Worker’s Compensation Insurance, annually collecting employment information from each Project, requiring a certified public accountant to certify that the numbers in the Project’s annual report to the UCIDA “are consistent with the payroll data submitted to the State of New York in the entity’s NY45, Proof of Workers’ Compensation coverage,” and verifying that PILOT payments have been made.

The current Director of the Ulster County Office of Economic Development advises that every Project was visited in 2013. UCIDA also mails each Project an annual reporting form to complete and mail back. Similarly, municipalities are sent a form with which to verify the receipt of PILOT payments, and industrial revenue bondholders a form on which to verify the outstanding debt at the end of each year. It is not clear whether all businesses complete required employment reporting every year, or whether the reported employment figures are verified by the procedures outlined in the Enforcement Policy.

ULSTER COUNTY COMPTROLLER RECOMMENDATIONS

As noted above, the UCIDA already uses many of the best practices outlined in this report. UCIDA is the only county-level IDA in the Mid-Hudson region to select Projects based on an objective point system. It performs cost-benefit analyses, includes clawback provisions in its Project Benefits Agreements, and makes monitoring visits to existing Projects.

The Ulster County Comptroller recommends that the UCIDA consider applying or improving best practices by amending its policies as follows.

⁵⁶ “GFOA Best Practice: Monitoring Economic Development Performance;” NYSEDC, “IDA Recommended Practices,” OSC, *Annual Performance Report on New York State’s IDAs 2012*,

⁵⁷ OSC, *Annual Performance Report on New York State’s IDAs 2012*, 5.

⁵⁸ OSC, *Annual Performance Report on New York State’s IDAs 2012*, 10.

⁵⁹ New York Senate Bill 5551 of 2013, Section 2.

Recommendation 1: Support only Projects which likely will not proceed *but for* IDA assistance.

The UCIDA should consider the merits of amending its UTEP to specify that a prerequisite to approval is a determination that the Project likely will not proceed without IDA assistance, or at least consider whether a different and lesser matrix of benefits should accompany a Project which doesn't meet that criteria.

To assist in that determination, the UCIDA could add the following, or similarly motivated, questions to its application:

"If IDA assistance is denied, will your Project... (check all that apply.)

proceed with the same scope, and at the same site, as outlined in this application.

locate outside of Ulster County. Possible locations: _____.

choose a different location within Ulster County. Location: _____.

fail to proceed. Explain why: _____.

proceed in different schedule. Explain: _____.

proceed in different form. Explain which aspects of your Project are enabled by UCIDA assistance, and how the Project with UCIDA assistance would differ from the Project without UCIDA assistance: _____.

By what amount will total capital investment (total Project costs listed in Part V, question A (8)(h) of the application) be reduced if this Project does not receive IDA assistance?

How many of the projected construction jobs (given in part IV, question B) will be lost if this Project does not receive IDA assistance?

How many of the projected permanent jobs (employment impact given in Part IV, Question C) will be lost if this Project does not receive IDA assistance?

Please attach documents supporting your answer, such as

- Two Project *pro formas*, one assuming a Project with, and one without, IDA assistance
- Documents relating to assessment of alternate sites made in the normal course of business, such as correspondence with out-of-state landlords for lease space, for example."

Where the applicant is required to provide business information that it does not wish to be made public, it may request that such elements be kept confidential, as described in the current UCIDA Application instructions.

Recommendation 2: For all retail and services Projects, require evidence that the Project will not draw customers away from existing Ulster County businesses.

The UCIDA should consider the merits of amending its UTEP to make IDA assistance to “Retail” Projects conditional on proof that the local market for the proposed product or service is not already saturated. As explained above, “retail” Projects include all businesses serving customers who "personally visit their facilities," such as banks, medical facilities, and hotels.

In certain cases, an economic benefit such as revitalization of distressed area may outweigh the diffuse harm to existing business competitors. To reflect such a situation, the UCIDA may alternatively wish to amend its PILOT Points Calculator to subtract points from the score of any Project which would duplicate products or services already offered by local businesses in the same market area.

Recommendation 3: When IDA assistance will alter only the scope but not the viability of a Project, calculate the costs and benefits attributable only to those aspects of the Project that would not proceed but for IDA assistance.

In a cost-benefit analysis, consider input of cost and benefit figures attributable only as to those aspects of the Project that would not proceed but for IDA assistance. The additional application questions listed under Recommendation 1 may be used for this purpose.

Recommendation 4: In the PILOT Points Calculator, give points only for jobs which would not be created but for IDA assistance.

Currently, the size of a business’ tax abatement is largely proportional to the size of its workforce. This policy rewards large businesses for coming to or expanding in Ulster County, but it does not guarantee that the tax abatement *causes* this location or expansion.

Basing the PILOT points on jobs attributable to IDA assistance creates some parity between small businesses which use \$100,000 in IDA assistance to create 10 jobs and large businesses which, despite their larger overall Project size, use the same \$100,000 in IDA assistance to create the same number (10) of jobs.

Further, it may be possible to abate property taxes only on that portion of new construction which would not have occurred but for IDA assistance.

Recommendation 5: Interpret the cost-benefit analysis with care.

When interpreting the cost-benefit analysis, three concerns should be kept in mind (described in greater detail in Appendix 1):

- (i) In line with the current industry standard, the informANALYTICS cost-benefit analysis simultaneously lists tax revenue forgone as a cost, and tax revenue gained as a benefit. Care must be taken in interpreting these numbers; perhaps counter-intuitively, the costs cannot simply be subtracted from the benefits resulting in what will may be a “wash.” Instead, the real world scenario is as follows: There is some chance that, by offering IDA assistance, the state and region are unnecessarily incurring the cost of forgone tax revenue. There is a complementary

chance that, by offering IDA assistance, the state and region are enjoying the benefits of additional revenue. However, only one of these situations will ultimately be realized. The IDA should be determining which it is likely to be – assuming both the loss and the gain is a fiction.

- (ii) Although informANALYTICS calculates the indirect and induced economic impact of an IDA Project, it does not calculate the indirect or induced impact of foregone tax revenue. When considering the impact of a tax abatement, it should be remembered that not only private sector spending but also government spending has a ripple effect on the local economy, and the record should reflect consideration of this reality.
- (iii) Supplement the informANALYTICS cost-benefit analysis with a calculation of the cost of increased governmental services. InformANALYTICS does not take this into account as a Project cost and thus should not be the only measure of cost-benefit analysis.
- (iv) Expert analysis of fiscal and economic impacts by the applicant should be performed by consultants retained by the IDA and funded through applicant escrows to vet the reliability of those impacts in appropriate cases.

Recommendation 6: Require proof of pre-assistance employment levels, as well as “no assistance” impacts.

As part of the application for assistance, the UCIDA should require a copy of NY-45, Proof of Workers Compensation Coverage, for the most recent pre-application year. Also, in addition to impacts for job creation in the event of IDA assistance, applicants should be asked to include impacts in the event there is no IDA assistance, so that the UCIDA can judge the value of the return to be realized if benefits are conferred.

Recommendation 7: Maximize public access to information.

Even where not required by law, the UCIDA should maximize public and government stakeholder access to its proceedings and documents. Meetings should be recorded and televised, notice procedures

Even where not required by law, the UCIDA should maximize public and government stakeholder access to its proceedings and documents. Meetings should be recorded and televised, notice procedures should be enlarged to the extent practical, all documents not protected by law should be posted online to obviate the need for lengthy FOIL reviews and commitment of staff resources to responding, and reports should be made regularly to the Legislature of all proceedings on a timely basis.

should be enlarged to the extent practical, all documents not protected by law should be posted online to obviate the need for lengthy FOIL reviews and commitment of staff resources to responding, and reports should be made regularly to the Legislature of all proceedings on a timely basis so that the legislature is not in the position of waiting for official approval and publication of

minutes in order to be apprised of the UCIDA's activities.

Recommendation 8: Consider a scoring category for local support.

The UCIDA should consider adding a scoring category for municipal support to the PILOT Points Calculator, and there should perhaps be a requirement of a different level of scrutiny or approval criteria where the locality has voiced "official" opposition.

Recommendation 9: Consider requiring school district approval for residential Projects.

The UCIDA should consider whether to require school district approval where a Project is residential in nature. Residential Projects, obviously, bring with them schoolchildren. While school district approval of all IDA Projects may be unnecessary and even unduly cumbersome, it is worth examining the prudence of requiring districts' approval where they are directly impacted by the cost of additional students.

Recommendation 10: Specify dormitory and senior housing approval criteria.

The Uniform Tax Exemption Policy should have specific standards for the approval and level of benefits for Projects in the dormitory and senior living category (Category 5). At present it is the only category where such criteria are not explicit.

The UTEP should have specific standards for the approval and level of benefits for Projects in the dormitory and senior living category.

Recommendation 11: Comment on pending state legislation.

The UCIDA and the County Legislature are encouraged to comment on pending state

legislation proposed by the Office of State Comptroller and Authorities Budget Office. Many of the best practices are proposed for inclusion in those bills. If the UCIDA and the Legislature feel strongly about any of their provisions, or, perhaps just as important, if they feel strongly that such practices will be harmful to Ulster County, both bodies should be on record as to their support or objections.

Recommendation 12: Allow explicit board discretion regarding Project approval.

Most of the recommendations in this report would refine eligibility criteria and objective scoring systems. However, no system can foresee all possible scenarios. The Uniform Tax Exemption Policy recognizes this by including provisions which allow for the exercise of discretion notwithstanding the results of the objective scoring. However, those provisions should be modified to make clear that the IDA's right to exercise discretion in deviating from the UTEP may be exercised not only in favor of approval or increased benefits, but also in denial or diminished benefits.

CONCLUSION

The purpose of this report is to educate the public, lawmakers, and policy makers on the latest scholarship and developments in the field of IDA practice, in order to inform a discussion of best practices here in Ulster County. It is our hope that those stakeholders will find it useful in that respect, and that it will be just a starting point for continuing to develop the authority and resources of the UCIDA in a manner which will best serve the people of Ulster County. The Ulster County Office of Economic Development, the UCIDA Chair, and its counsel were extremely forthright and cooperative in response to our inquiries in connection with this report, for which we thank them. Our Office is at the service of the people, the UCIDA, the Ulster County Office of Economic Development, and the Ulster County Legislature in following up on any matter in this report.

APPENDICES

APPENDIX 1: Interpreting Cost-Benefit Analyses of Tax Incentives

Cost-benefit analyses of IDA-induced development differ from cost-benefit analyses of regular development s because there is an element of uncertainty about whether the tax incentive is truly needed to induce the . The Ulster County Comptroller recommends the following framework.

1. List Economic Impact, Fiscal Impact, and Tax Abatement in three separate tables.

Direct Economic Impact Factors

Benefits	Costs
Income of local employees	Loss of business to any competing local companies
Business' ongoing spending at local suppliers	
Local hiring of temporary construction workers	
Local purchase of construction materials and capital equipment	
Economic Benefits – Economic Costs = Net Economic Impact	

Fiscal Impact

Benefits	Costs
PILOT payments	Increased municipal services required by increased business activity and any new residents attracted by increased business activity
Sales tax paid by IDA Project after exemption ends	Lost revenue due to substitution of business away from existing businesses
Income tax paid by Project employees	
Business income taxes	
Increased sales, income, and business income taxes generated by induced and indirect economic activity	
Fiscal Benefits – Fiscal Costs = Net Fiscal Impact	

Tax Abatement

Costs
Net property tax exemptions (Tax exemption minus PILOT)
Sales tax exemptions
Mortgage tax exemptions
Sum of costs = Total Tax Abatement

Many cost-benefit analyses incorrectly consider tax abatement a fiscal cost to be subtracted from any net fiscal benefit. Although both numbers are important to consider, they cannot simply be added or subtracted and should therefore be listed in separate tables. If the tax abatement is truly necessary to enable the IDA Project, it should not be considered a cost because there is no scenario in which the

government can collect taxes at the full level.⁶⁰ (The Project will not happen, and there will be nothing to collect taxes on, if no abatement is offered.) However, if the tax abatement is unnecessary to the Project's success, the fiscal and economic benefits cannot be counted as benefits of the tax abatement, because they will occur regardless of the IDA's decision.

It is helpful to keep in mind that this is a cost-benefit analysis of the decision to grant a tax incentive, and of all consequences flowing from that decision. Only impacts attributable to that decision should be considered costs or benefits.

2. Determine how likely the Project is to proceed without IDA assistance.

The IDA board cannot know with certainty whether a Project will proceed without IDA assistance, but it can develop policies promoting a well-educated conclusion based on objective criteria. Board members should be able to conclude that a Project is very likely to proceed regardless of IDA assistance, very unlikely to proceed without IDA assistance, or somewhere in between, based upon objective evidence in the record, vetted by competent professionals on its behalf where the board deems such professional expertise appropriate.

3. Compare the ed fiscal and economic impact to the size of the tax abatement.

If the tax abatement is of similar magnitude to the economic or fiscal impact, the IDA board should be very sure that the Project will not proceed without assistance. If the property tax abatement is relatively small compared to the potential economic payoff, the board may require less proof of the business' true need for tax abatement.

4. Compare tax abatements to direct economic impact only (not indirect impact).

In deciding whether to grant tax abatement, an IDA board will commonly compare the size of requested abatement to the Project's potential economic impact. Tax revenue, like private-sector spending, can recirculate through the local economy, causing a ripple or "multiplier" effect. However, cost-benefit analyses typically do not calculate the indirect impact of tax revenue (or of foregone tax revenue). To make this a fair comparison, only direct economic impact should be compared.

5. Consider only the portion of costs and benefits attributable to IDA assistance

In some cases, IDA assistance changes the scope of a Project. For example, a manufacturer could add two production lines and 100 jobs without IDA assistance or three production lines and 150 jobs with assistance. In this case, the economic impact of IDA assistance is 50 jobs, not 150. Similarly, the cost of increased municipal services due to IDA assistance is only the cost related to the third production line.

⁶⁰ Economist Robert Wassmer argues that only those tax abatements spent on Projects that would have gone forward anyway should be counted as tax expenditures in a state's budget; his logic can be transferred to cost-benefit analyses of individual Projects. Robert Wassmer, "Property Tax Abatement As Tax Expenditure?" *Public Finance and Management* 14 (1), 2013.

APPENDIX 2 Understanding informANALYTICS Cost-Benefit Analyses

What is informANALYTICS?

informANALYTICS is a software package providing cost-benefit analyses of IDA tax abatements. It is sold by the Rochester-based Center for Governmental Research (CGR), and was designed by CGR in partnership with the New York State Economic Development Council. The user inputs information about a Project's industry; the projected number of jobs to be created, including the percentage which will be new to the region or state; the Project's construction, real estate, and equipment costs; and the amount and schedule of tax abatement to be offered. The software returns a report showing direct, indirect, and induced economic impact; new tax revenues; and the cost of tax abatement. Consumers of this information should understand what is included and what is omitted from the software's calculations.

What can informANALYTICS do?

- **informANALYTICS calculates the total value of tax abatements.**
The internal report estimates the total value of all property tax, sales tax, and mortgage recording tax abatements offered to a Project by state, county, and local governments.
- **informANALYTICS calculates the present value of multi-year exemptions and revenues.**
When tax exemptions will be offered, or revenues collected, over a multi-year period, the software shows the value of all the future payments in today's dollars. This reflects the fact that \$100 in current revenue is more valuable than \$100 in future revenue because inflation will erode the value of the dollar. Similarly, \$100 invested today generates more than \$100 in the future. "Present value" calculations show the dollar quantity of tax expenditure or revenue which, if received today, would be equal in value to a larger amount of money spread out over time.
- **informANALYTICS calculates indirect and induced employment.**
Indirect employment is the number of jobs created by local businesses which supply the IDA Project and benefit from its local siting or expansion. Induced employment is the number of jobs created at businesses where Project employees spend their paychecks. informANALYTICS is able to calculate indirect and induced employment because it uses regionally-specific data on inter-industry spending and on the percentage of consumer spending that stays in the local economy.
- **informANALYTICS calculates direct, indirect, and induced revenue.**
Project employees will pay income and sales taxes; so will employees of other businesses whose jobs are supported by sales to the Project and its employees. informANALYTICS uses data on New York income taxes and sales taxes in every municipality and county to calculate additional tax revenue generated by the Project.
- **informANALYTICS knows typical salaries by industry.**
Based on the industry selected, informANALYTICS provides average salaries.

What can't informANALYTICS do?

- **informANALYTICS does not calculate the cost of government services.**

New business activity can increase a jurisdiction's need for road maintenance, police and fire protection, or other government services. informANALYTICS does not calculate this cost.⁶¹ The IDA may wish to obtain an estimate of the cost of services from their local planning department or a private consultant.

- **informANALYTICS does not calculate the "substitution effect."**

The "substitution effect" is the amount of income lost by established businesses due to the entry of a new competitor. Any new business serving the local market will compete with existing businesses for spending by local residents. By contrast, export businesses such as manufacturers serving distant markets are unlikely to compete with local businesses.

informANALYTICS does not provide a figure for the substitution effect, but it does make a downward adjustment to the economic impact of retail and wholesale goods stores, showing zero indirect or induced impact for these stores.⁶² However, informANALYTICS makes no adjustment for the substitution effect of *service* industries targeting the local market.

Assumptions of informANALYTICS

- **What is the "region?"**

informANALYTICS shows economic and fiscal impacts for the region and the state. For the purposes of fiscal impact, the "region" is identical to the host county. For the economic impact, the region includes the host county and some neighboring counties. Since informANALYTICS is customized to each IDA, the IDA should ask the Center for Governmental Research how their region is defined.

- **Construction impact**

Construction employment figures assume all construction labor and materials are hired and purchased in the local region.

Interpreting the informANALYTICS cost-benefit analysis

When interpreting the informANALYTICS cost-benefit analysis, the techniques described in Appendix 1 should be used.

⁶¹ An informANALYTICS representative indicated that it would be cost-prohibitive to develop customized cost-of-municipal-services models for their clients, and that the economic development professionals they serve usually are less concerned with calculating these costs than are planning professionals.

⁶² The user can override this adjustment.