

**Tompkins County Industrial Development Agency
2009 Annual Report**

The following information is intended to outline the basic operations and accomplishments of the Tompkins County Industrial Development Agency (TCIDA). TCIDA received administrative support from Tompkins County Area Development, Inc. (TCAD), a separate not-for-profit economic development agency. TCIDA receives attorney services from Mariette Geldenhuys, Attorney at Law and receives bond counsel services from Harris Beach LLPC.

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TOMPKINS COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

Mission, Policies and Procedures

Adopted: July 16, 1992
Revised: December 16, 1993, March 20, 1997, September 16, 1999,
November 16, 2000, September 20, 2001, October 4, 2002, April 2, 2004,
April 6, 2007, July 17, 2007, December 7, 2007, January 16, 2009, December 8, 2009

MISSION

The primary mission of the Tompkins County Industrial Development Agency (IDA) is to offer economic incentives to Tompkins County businesses in order to create and retain quality employment opportunities and strengthen the local tax base. The IDA targets the industrial sector and will only consider other sectors if certain criteria are met.

POLICIES

A. Eligible Projects

In general, the IDA avoids offering incentives to businesses that will compete with or displace existing Tompkins County businesses. It prefers to assist those businesses that have a market for products or services extending beyond Tompkins County including "back office" operations and regional or national headquarters. The IDA will also assist companies selling their product or service in the County when it is clear their primary competition is from outside of the County.

1. Industrial - The IDA targets the industrial sector because of the quality of the jobs this sector creates and because it is unlikely applicants will be competing with other Tompkins County businesses. The IDA defines 'industrial' very broadly to include computer software, agri-business, printing, publishing, and research and development.
2. Retail/Commercial Projects - The IDA will only consider retail/commercial projects under the following conditions:
 - a. The project is a critical part of a larger, planned development.
 - b. The project must be endorsed, through a formal resolution, by the appropriate municipal governing body.
 - c. In addition to these local policies, New York State prohibits retail projects unless some of the following conditions are met; the project:
 - i. Is considered a tourism destination facility
 - ii. Is operated by a not-for-profit corporation
 - iii. Will locate outside of the State without IDA assistance
 - iv. Is located in a highly distressed area
 - v. Makes available goods or services not reasonably accessible
 - vi. Preserves or increases permanent jobs
3. Not-for-Profit Projects - The IDA views its principle role as assisting industrial projects, however New York State law now makes it possible for the IDA to help not-for-profit corporations finance certain facilities through the issuance of bonds. The IDA recognizes not-for-profit corporations as vital to the community, therefore, job creation is not the primary consideration when reviewing these projects. The

IDA will only consider not-for-profit projects that meet the conditions of either item “a.” or item “b.”; and the conditions of item “c.” (see below):

- a. IDA incentives will assist the applicant deliver services important to the health, well-being or quality-of-life of local residents.
- b. The applicant’s operation has important and measurable direct or indirect benefits to the Tompkins County economy in terms of property tax, sales tax and employment. IDA incentives will help support the ability of the applicant to operate in an efficient and productive manner.
- c. IDA incentives will not result in an unfair competitive advantage with similar for-profit or not-for-profit operations in the County.

4. IDA Downtown Density Incentive Program (City of Ithaca) – for application process and incentives to be delivered, please refer to the separate policy IDA Downtown Density Incentive Program Policy.

5. Energy-Related Investments: The IDA wishes to encourage local businesses to invest in facilities and equipment that will increase energy efficiency and/or transition to renewable energy sources, reduce operating costs, and lower emissions. The IDA will consider offering sales tax abatement to encourage these types of investments. The IDA will require a completed standard application and a separate statement that includes details on the proposed investment and the resulting reduction in energy use. To be considered, projects should meet NYSERDA or LEED criteria. The successful applicant will not need to report on job creation after completion of the project, but will be expected to report on energy use, comparing pre project and post project data.

B. Fees

The applicant is responsible for paying the IDA Administrative Fee at the time of closing. This fee will be equal to 1% of the total value of expenses that are positively impacted by IDA incentives. This includes the value of construction of improvements to property that is impacted by property and sales tax abatement and the value of furniture, fixtures and equipment that are impacted by sales tax abatement. It will not include any purchases, such as manufacturing equipment, where the IDA does not deliver an incentive. Soft Costs (legal, consulting, financial, architectural and engineering fees) will be included in the amount considered as total value of expenses. The applicant is also responsible for paying the IDA for all legal costs it incurs including IDA Counsel and Bond Counsel fees.

In an attempt to make its incentive program cost effective for smaller projects, the IDA will reimburse the applicant for 100% of the Administrative Fee, IDA Counsel Fee, and IDA Bond Counsel Fee associated with the IDA involvement in the project if the total project cost is less than \$1 Million. For total project cost greater than \$1 Million but less than \$2 Million, the reimbursement of fees will be reimbursed on a sliding scale that declines from 100% to 0% gradually based on project size. There will be no reimbursement of fees for projects with costs over \$2 Million. The reimbursement will take the form of additional property tax abatement credited to the business in the initial years of the Payment In Lieu of Tax agreement (PILOT). The IDA retains the right to determine the credit the applicant will receive. For projects where there is no property tax abatement, there will not be any form of fee reimbursement.

For Civic Facility projects where the debt is restructured and for all other projects where the debt is refinanced or restructured, the IDA fee will be 1% of the debt service saved over the term of the new financing that results from the restructuring or refinancing or \$1,000, whichever is greater.

C. Property Tax Abatement for Standard Industrial Applications

The IDA is not required to pay real property taxes on any property it acquires. The IDA will require the applicant to make Payment In Lieu of Tax (PILOT) payments to all of the taxing authorities according to the following guidelines.

1. The following will be the standard property tax abatement offered to qualified businesses:

<u>YEAR</u>	<u>ABATEMENT</u>
1	90%
2	77%
3	64%
4	51%
5	39%
6	26%
7	13%

2. The standard abatement will only impact taxes on improvements to the property and not taxes on existing property.
3. The IDA retains the ability to offer more than the standard abatement based on an analysis of the impact on the economy and the needs of the business. All appropriate taxing authorities will be notified of the reasons for deviation from standard policy and given an opportunity to review and comment on each project seeking a higher level of abatement before final IDA approval.

An applicant's request for more than the standard abatement, should be supported by appropriate financial documentation that clearly substantiates the need for the deviation. This documentation should include a comparison of standard vs. proposed abatement, and an explanation of the financial assumptions used in the analysis.

D. Sales Tax Abatement

The applicant will be exempt from both the local and State portion of sales tax on construction materials, equipment, and furnishings associated with the project.

The IDA may grant sales tax abatement on the value of improvements to a project in which the IDA already holds title. The project owner or occupant must submit a standard application to the IDA, providing information on the nature of the improvements, economic impact, and the need for IDA incentives.

E. Miscellaneous Taxes and Fees

The applicant is responsible for paying all Special Assessments, Revenue Stamps, Recording and Filing Fees, Transfer Taxes, Estate Taxes, and that portion of the Mortgage Tax (\$5 per \$1,000) that is allocated to the local municipality. The applicant does not have to pay the portion of the Mortgage Recording Tax (\$2.50 per \$1,000) that is allocated to the State.

F. Local Purchasing and Hiring Practices

The IDA requires all recipients of IDA incentives to make every effort to purchase goods and services from Tompkins County businesses and to hire Tompkins County residents. The IDA is especially supportive of projects that make a specific commitment to hire women and minorities during the construction phase or as permanent full-time workers of the project's operating businesses. The IDA may require detailed information concerning the applicant's past and projected purchasing and employment practices.

PROCEDURES

A. Application

Tompkins County Area Development, Inc. (TCAD), provides administrative and marketing services to the IDA. Potential applicants should work with TCAD to determine whether the proposed project is eligible. If the project appears to be eligible, the applicant will be invited to submit an application for assistance. The application will be presented to the IDA board for its review. Based on the nature of the project and the incentives requested, the following will occur:

1. If the project meets the goals of the IDA and the applicant is requesting the standard incentives and the project's value is less than \$100,000, the IDA can approve the project at the initial meeting. If the project's value exceeds \$100,000, the IDA will instead adopt a resolution describing its intent to provide assistance and the nature of that assistance.
2. If the applicant is requesting more than the standard incentives, all local taxing authorities that would be impacted will be notified and given an opportunity to comment on the project before IDA approval.
3. If the project is commercial or retail in nature, the IDA can approve the project only if the above-stated criteria have been met and contingent on support by the appropriate local government.
4. If the applicant is requesting tax exempt bonding assistance, a Public Hearing and approval by the Tompkins County Legislature may be required. In some cases, preliminary approval can be granted contingent upon successful completion of these requirements. All municipal and taxing authorities impacted by the project will be notified of the public hearing.
5. For projects valued over \$100,000, a Public Hearing will be held in the city, town or village where the project is located, with thirty days public notice and thirty days notice to the CEO of each affected municipality and school district.

B. Notification and Reporting

1. The appropriate municipal authorities will be notified and invited to comment if a proposed IDA action will result in the relocation of a business from that municipality.
2. All appropriate taxing authorities will receive a copy of the PILOT Agreement not more than fifteen days after the project closes, and have certain rights related to payment in lieu of taxes. Late payments will be imposed a 5% penalty for the first month, plus one percent thereafter, and tax-affected jurisdictions may take direct action against project occupants if payments are delinquent.
3. Applicants will notify the State Job Service and any appropriate employment and training agencies, such as PIC/JTPA, regarding job openings that result from the project. Except as otherwise provided by collective bargaining agreements, applicants will agree to give first consideration to appropriate referrals from these agencies.
4. Businesses will be required to submit an employment report on an annual basis to include information on general job categories, salary, and women and minority employees, as well as a report on outstanding debt associated with the project.
5. When the IDA approves issuing incentives to a developer who has presented certain tenant companies as beneficiaries of these incentives, the IDA should be notified about any tenant company changes. The IDA has the right to determine if a new tenant company falls within the IDA's project guidelines, and may re-evaluate its original project approval based on this determination.
6. Under certain circumstances, a Governor's order concerning affirmative action will be in effect.

Major Accomplishments – 2009

- Updated Policies and Procedures – to allow energy efficiency related projects. Also updated administrative fee requirement for debt refinancing and restructuring.

2009 IDA Projects – finalized and new

Company	Status	Total Project Cost	Square Footage	Projected New Jobs
AES Cayuga Power (PILOT)	Closed	n/a	n/a	n/a
Totals				

BYLAWS

TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Revised: August 17, 1994, November 21, 2001, March 15, 2002, February 2, 2007
October 3, 2008

ARTICLE I - THE AGENCY

- SECTION 1. NAME. The name of the agency shall be the "Tompkins County Industrial Development Agency," hereinafter referred to as the "Agency."
- SECTION 2. SEAL OF AGENCY. The seal of the Agency shall be in the form of a circle, and shall bear the name of the Agency and the year of its organization.
- SECTION 3. OFFICE OF AGENCY. The office of the Agency shall be at the Tompkins County Courthouse, 320 North Tioga Street, in the City of Ithaca, New York, but the Agency may have other offices at such other places as the Agency may from time to time designate by resolution.

ARTICLE II - THE ORGANIZATION

- SECTION 1. TYPE. The Agency is a corporate governmental agency, constituting a public benefit corporation.
- SECTION 2. TERM. The Agency shall be perpetual in duration.
- SECTION 3. PURPOSES AND POWERS. The purposes and powers of the Agency shall be as set forth in 858 of the General Municipal Law as amended from time to time.
- SECTION 4. MEMBERSHIP. Any one or more of the members of the Agency may be an official or employee of the County of Tompkins. In the event an official or employee of the County shall be appointed as a member of the Agency, acceptance or retention of said appointment shall not be deemed a forfeiture of his municipal office or employment, or incompatible therewith or affect his tenure or compensation in any way.

The Agency shall consist of (7) seven voting members each having one vote who shall be appointed by the Legislature of the County of Tompkins and who shall serve at the pleasure of said Board. Membership is to consist of no more than three (3) members of the Legislature; one (1) member of the TCAD Board of Directors, nominated by its Chair and confirmed by the IDA; one (1) elected municipal official; one (1) elected school district official; and one (1) at-large member.

All members shall be County residents. The membership as a group should have representatives from both urban and rural areas of the County and should embody skills that would complement the work of the Agency including substantial finance and/or business experience and experience in workforce and labor issues. In addition, the Agency will seek to have a diverse representative board including but not limited to race, gender, sexual orientation, disability and other legally protected classes.

The County Administrator, County Planning Commissioner, and County Finance Director shall serve as advisors to the Board.

SECTION 5. COMPENSATION. Members of the Agency shall receive no compensation for their services, but shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of their duties.

SECTION 6. QUORUM. A majority of the members of the Agency shall constitute a quorum, provided that a smaller number may meet and adjourn to some other time or until the quorum is obtained. For the passage of any resolution or motion at meetings of the Agency, a majority of the whole number is required to perform and exercise said power, authority, and duty.

SECTION 7. TERM LIMITS. Members of the Tompkins County Industrial Development Agency who are also members of the Tompkins County Legislature shall be appointed annually by the Chair of the County Legislature subject to the approval of the Legislature, and shall serve at the pleasure of the Legislature.

Non-Legislator board members shall be appointed for a term of two years, with no more than three successive terms, subject to the approval of such

terms by the Legislature. A member shall continue to hold office and may be reappointed to successive appointments until his or her successor is appointed and has qualified.

SECTION 8. COMMITTEES. The Tompkins County Industrial Development Agency will have the following Committees: Advisory, Audit, and Governance.

Advisory: An Advisory Committee may be formed on an ad hoc basis when purposes arise and may consist of advisors including the Tompkins County Administrator, Tompkins County Chief Financial Officer, and the Tompkins County Commissioner of Planning.

Audit: The Audit Committee shall consist of at least three (3) members of the board with the chair of the committee being appointed by the chair of the board.

Governance: The Governance Committee shall consist of at least three (3) members of the board with the chair of the committee being appointed by the chair of the board.

ARTICLE III - OFFICERS

SECTION 1. OFFICERS. The officers of the Agency shall consist of a chair, a vice-chair, a secretary and a treasurer, who shall be voting members of the Agency.

SECTION 2. CHAIR. The Legislature shall designate the chair of the Agency. The Chair shall preside at all meetings of the Agency and, except as otherwise authorized by resolution of the Agency, shall sign all agreements, contracts, deeds, and any other instruments of the Agency. At each meeting, the Chair shall submit such recommendations and information as (s)he may consider proper concerning the business affairs and policies of the Agency.

SECTION 3. VICE-CHAIR. The Vice-chair shall, in the absence of the Chair, fulfill the duties of the Chair.

SECTION 4. SECRETARY. The Secretary shall maintain or cause to be maintained the records of the Agency, shall act as secretary of the meetings of the Agency,

record or cause to be recorded all votes, keep or cause to be kept a record of the proceedings of the Agency in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to this office.

SECTION 5. TREASURER. The Treasurer shall maintain or cause to be maintained all funds of the Agency and shall deposit or cause to be deposited same in the name of the Agency in such bank (s) as the Agency may select. The Treasurer shall sign or cause to be signed all instruments of indebtedness, all orders, and all checks for the payment of money; and shall pay out and disburse said monies under the direction of the Agency. Except as otherwise authorized by Agency resolution, all such instruments of indebtedness, orders, and checks over \$20,000 shall be countersigned by the Chair. The Treasurer shall keep or cause to be kept regular books of accounts showing receipts and expenditures, and shall render to the Agency at each regular meeting an account of his transactions and also of the financial condition of the Agency.

SECTION 6. ADDITIONAL DUTIES. The officers of the Agency shall perform such other duties and functions as may from time to time be required by the Agency, the bylaws of the Agency, or the rules and regulations of the Agency.

SECTION 7. OFFICERS. All officers except the Chair of the Agency shall be elected at the annual meeting of the Agency and shall hold office for one year or until the successors are elected.

SECTION 8. VACANCIES. Should any office become vacant, the Agency shall appoint a successor from among its membership at the next regular meeting, and such appointment shall be for the unexpired term of said office.

SECTION 9. ADMINISTRATIVE DIRECTOR. An Administrative Director may be appointed by the Agency, and shall have general supervision over the administration of the business and affairs of the Agency, subject to the direction of the Agency. The Director shall be charged with the management of all projects of the Agency.

SECTION 10. CHIEF FINANCIAL OFFICER. The Chief Financial Officer of Tompkins County shall serve as the Chief Financial Officer of the Tompkins County Industrial Development Agency. Upon direction of the Treasurer, the Chief

Financial Officer shall perform the duties of the Treasurer when needed.

SECTION 11. ADDITIONAL PERSONNEL. The Agency may from time to time employ such personnel as it deems necessary to exercise its powers, duties, and functions as prescribed by the New York State Industrial Development Agency Act, as amended, and all other laws of the State of New York applicable thereto. The selection and compensation of all personnel, including the Administrative Director, shall be determined by the Agency subject to the laws of the State of New York.

ARTICLE IV - MEETINGS

SECTION 1. ANNUAL MEETING. The annual meeting of the Agency shall be held in January of each year at the regular meeting place of the Agency.

SECTION 2. MEETINGS. Meetings of the Agency may be held as needed.

SECTION 3. SPECIAL MEETINGS. The Chair of the Agency may, when (s)he deems it desirable, and shall upon the written request of two additional members of the Agency, call a special meeting of the Agency for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Agency or may be mailed to the business or home address of each member of the Agency at least two days prior to the date of such special meeting. Waivers of notice may be signed by any members failing to receive a proper notice. At such special meeting no business shall be considered other than as designated in the call, but if all members of the Agency are present at a special meeting, with or without notice thereof, any and all business may be transacted at such special meeting.

SECTION 4. ORDER OF BUSINESS. The following shall be the order of business at the regular meetings of the Agency:

- a. roll call
- b. reading and approval of minutes of previous meeting
- c. bills and communications
- d. report of the Treasurer
- e. reports of committees

- f. unfinished business
- g. new business
- h. adjournment

All resolutions shall be in writing and shall be copied in a journal of the proceedings of the Agency.

SECTION 5. MANNER OF VOTING. Voting on all questions coming before the Agency shall be by voice vote and the yeas and nays shall be entered in the minutes of such meetings.

ARTICLE V - AMENDMENTS

SECTION 1. AMENDMENTS TO BYLAWS. The Bylaws of the Agency shall be amended only with the approval of at least a majority of the members of the Agency at a regular or special meeting, but no such amendment shall be adopted unless at least seven days written notice thereof has been previously given to all members of the Agency.

Tompkins County Industrial Development Agency 2009 Budget

Projected Starting Balance \$ 886,010

Income

Fees	\$	80,121	
Interest		4,585	estimate
Total	\$	84,706	

Expenses

TCAD	\$	369,876	
Attorney	\$	2,257	
Audit	\$	10,000	
Total	\$	382,133	

Projected Ending Balance \$ 588,583

notes

1) "Fees" includes receivables plus estimates of fees based on projects approved and nearing approval.

Income assumptions

10,121	AES Cayuga	February 27, 2009
70,000	CCHPP 2 of 5	February 11, 2009

**Tompkins County Industrial Development Agency
2009 Board of Directors**

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* = member of Audit Committee
= member of Governance Committee

Comments on Operations

Currently the TCIDA does not have any real property. Any information on outstanding bonds or notes for current TCIDA projects are reported in the NYS Annual Financial Report. There is no compensation schedule as TCIDA does not have any employees. Administrative management is provided by TCAD.

The Board Treasurer maintains the IDA funds and reports annually to the Board. Administrative fees are paid via check or wire transfer.