

TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY
**2023 ASSESSMENT OF EFFECTIVENESS
OF INTERNAL CONTROLS**

ASSESSMENT OF EFFECTIVENESS OF INTERNAL CONTROLS

The objective of this process is to ensure an adequate system of internal controls and to promote the effective and efficient operations of the IDA. The review is conducted by management along with an annual external audit.

ITEMS:

1. Define Major Business Functions
2. Determine the risks associated with operations
3. Identify internal control systems – policies, practices, attitudes, guidelines
4. Assess system effectiveness
5. Corrective actions

This statement certifies that the Town of Lockport IDA followed a process that assessed and documented the adequacy of its internal control structure and policies for the year ending December 31, 2023. To the extent that deficiencies were identified, the authority has developed corrective action plans to reduce any corresponding risk.

1. **Major Business Functions.** The Town of Lockport IDA is in the business of creating and/or retaining jobs through marketing, management of the IDA Park, creating of tax incentives (PILOTS) payment in lieu of taxes, land sales, guiding prospects through regulatory agencies, and guiding prospects through Town Planning Board process.

The IDA utilized “MRB Group Cost Benefit Tool” to review prospective project qualifications. A project should primarily achieve a regional return of 15:1 or greater or other regional benefit in order to be considered for a project incentive. The agency also has definitive criteria in its Uniform Selection Policy against which all projects are compared against. If variations from our UTEP are involved it is noted and taxing jurisdictions notified.

2. **Risks associated with Operations.**

- The IDA has no dedicated/consistent source of revenue.
- The IDA has limited open land for future development.
- The IDA faces increasing regulation by NYSDEC, NYSDOT, US Army Corp. as well as by NYS ABO, and NYS Comptroller.
- Current economic conditions (cost of construction materials, delays in construction materials, increased tax rates, high interest rates etc.) could lead to some hesitancy by business owners/developers to move forward with projects and/or obtain financing.

3. **Internal Control Systems.** Internal controls exist in several layers of protection to the IDA finance, land, and development project approval policies.

Financial controls: The Administrative Director and Administrative Assistant have no direct control of the bank accounts. All bills/vouchers are prepared then reviewed by the IDA Chief Financial Officer and the IDA Treasurer. All bill payments are brought to the IDA Board for approval after both the Chief Financial Officer and Treasurer have reviewed them. Furthermore, the IDA finance books are reviewed annually by an independent external auditing firm for accuracy, potential error, or fraud. This specific series of controls is regularly addressed as adequate by the External Auditor.

Land Control: All land sale projects are presented by the Administrative Director, reviewed by the IDA Attorney before review and/or approval by the IDA Board of Directors. Given market conditions the stated sale price per acre was increased in 2021. The Administrative Director regularly assesses the commercial real estate market.

Project Control: All Payment-in-Lieu-of-Tax (PILOT) proposals are reviewed through “MRB Group Cost Benefit Tool”. The MRB Group reports are made available to the Board of Directors to assist them in project assessment. The IDA Attorney reviews all applications and makes recommendations to the IDA Board. Furthermore, the IDA Board reviews in detail the IDA Project application where key data is presented to the IDA regarding the project. Project applicants are encouraged to meet with the IDA Board of Directors at a regular scheduled meeting to discuss their plans in further detail in addition to required public hearings.

4. **Assessment of Effectiveness:** The IDA Board of Directors reviews all project thoroughly prior to approval. After approval all projects are monitored at least annually for compliance in the creation of jobs, construction investment and other deliverables identified within their Agent Agreements.

The IDA Board of Directors reviews the specific performance of the IDA within the context of the “Assessment of Effectiveness”, “Annual Board Review,” “CEO Performance Review” the “Report Card” and annual external audit documents presented to the IDA Audit Committee and the Board.

- **Corrective Actions:**
 - a) Up North Hosting - At the midpoint of 2023 a representative of Up North Hosting alerted the IDA they were pausing operations to reformulate their data center. No progress was noted and in September Up North Hosting placed their facility for sale. The “pause”, missed job targets and pending sale of their facility all violate the terms of their May 2018 PILOT. Following the IDA’s policy, a Recapture ad hoc committee was formed and met in October of 2023. The committee authorized the IDA Attorneys to formally alert Up North of the violations. Official notice was mailed on November 15th, 2023.

At the time of this report no response to the notice or attempt to remedy the situation occurred in the 30-day window. Additional actions will occur in January 2024.

- b) Other Businesses that Missed Jobs Targets** –The IDA reviewed jobs reports received for calendar year 2023. A handful of supported businesses “missed” their job targets slightly. In every case the number of jobs called for in their PILOTS remain their target jobs but, in all cases, dramatic workforce challenges prevented the filling of open and budgeted positions. The IDA has attempted to expose businesses to new help wanted tools, apprenticeships, and paid OJT.

For all PILOT businesses who fail to reach their jobs target (or at least 85% of that target) our process is to:

- Contact the business management and notify them of a potential deficiency
- Assist Management in trying to address workforce challenges and recruitment and retention strategies for the ever-increasing position openings
- Agree with management on corrective actions if any
- Suspend current PILOT benefits
- Terminate future PILOT benefits
- Claw back previous PILOT benefits