

# COMIDA

## Isn't Spanish for Free Lunch

April 2006



**Initiative for Development Accountability**

The Initiative for Development Accountability: Fix IDA is a coalition of local community groups, working with other groups around the state to reform the Industrial Development Agency System. For years we have watched as our local Industrial Development Agency, COMIDA, has awarded questionable tax breaks to businesses. During the 2006 legislative session several provisions of the IDA law will sunset, providing state legislators with an opportunity to assess the performance of the IDA system.

This report is an attempt to shed some light on the performance of the IDA system in Monroe County.

#### Acknowledgements:

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#### Methodology:

The report was prepared using the data submitted by COMIDA to the Office of the New York State Comptroller for the years 2002, 2003 and 2004.

## Economic Development and Accountability in the Midst of Deindustrialization

Upstate New York has lost 33% of its factory jobs and the jobs that are being created pay less and are less likely to provide health insurance. With free trade agreements facilitating the movement of manufacturing facilities overseas, state and local governments need to act creatively to create and retain jobs.

At the same time, counties, towns and school districts are bearing the burden of increasing costs of Medicaid, pensions and schooling. Moreover, many upstate regions are experiencing population loss and erosion of the tax base. Given that

many municipalities are forced to do more with less it is crucial that taxpayers hold economic development authorities accountable.

The Industrial Development Agency (IDA) system needs to be reformed. Under current state law (Article 19-A of the General Municipal Law), New York State's Industrial Development Agencies give away the tax dollars of other governments, such as towns and school districts. Frequently, municipalities first read about the giveaways of their taxes in the newspapers.

# Analysis

## **IDA's operate without the most basic accountability mechanisms.**

- Tax subsidies can be granted without regard for the impact on the community.
- Businesses are not required to report their progress.
- Local IDA's are not empowered to hold businesses accountable for their poor performance in meeting job creation goals.
- Local IDA's are not required to set basic standards for jobs created.
- Construction projects are allowed to include outside contractors paying low wages.

This lack of accountability stands in striking contrast to the administration of public assistance by the Monroe County Department of Human Service. In Monroe County, public assistance recipients are fingerprinted and required to search for 15 jobs a week and report on their job search progress. Infractions can result in the total termination of assistance.

way, if the companies departed, the investment stayed.

Today, communities compete with one another by offering lucrative handouts and giveaways to companies to move jobs from one location to another. It is increasingly a zero sum game in terms of job creation. A few companies are the big

**We should not have two standards of accountability.**

Years ago, government funding for economic development was targeted to local infrastructure development that would attract the type of jobs the community wanted. That

winners; their competitors are put at an economic disadvantage- and the taxpayers pick up the bill.

## Missing Revenue

The Industrial Development Agency system was set up in New York State in the 1970's to encourage industrial development in depressed areas in New York State.

The County of Monroe Industrial Development Agency (COMIDA) is responsible for encouraging established businesses to expand locally as well as attracting new industries to the Greater Rochester area. COMIDA is supposed to help create and retain jobs.

In order to accomplish this goal COMIDA uses a variety of tax breaks as tools: local and school property tax exemptions, mortgage recording tax exemptions, sales

tax exemptions. COMIDA can also ask the county to issue tax exempt and taxable bonds as well as civic facility bonds.

For this report, we analyzed data from the Office of the State Comptroller summarizing COMIDA reports for 2002, 2003 and 2004. While there were 531 projects included in these reports, only 228 of these projects reported tax exemptions. Tax exemptions for these 228 projects exceeded \$24 million dollars during these three years. The total cost of tax exemptions, however, could be as high as \$34 million dollars because in the years 2003 and 2004 COMIDA did not report any sales tax data (COMIDA reported sales tax breaks in 2002 totaling over \$5 million).

### **The subsidies came out of the taxes going to the county, local towns and school districts:**

- Town governments lost \$1.7 million to COMIDA projects during this time period.
- Monroe County gave up \$3.6 million in revenue
- School districts in Monroe county lost out on \$13.6 million in revenue
- Henrietta Town Supervisor Jim Breese has been quoted as saying that in the years 2000-04 Henrietta homeowners paid an additional \$524 due to COMIDA tax breaks in that town.
- Brighton Town Councilperson Ray Tierney reports that the 2005 COMIDA tax breaks in Brighton were the equivalent of 142 homes (assessed at the average home value of \$140,000) being taken off the tax rolls.

# Findings

## Missing Jobs

Some COMIDA projects did not report any tax exemptions while others reported Payments in Lieu of Taxes (PILOTS) equal to their entire tax exemption. These projects may have enjoyed tax exemptions in earlier years not covered by the report or may receive tax exemptions in the future but they were not included in this analysis.

Many companies did not report current employment data making it impossible to assess whether or not they had met their promised job creation targets. Of the 228 projects that reported tax exemptions, only 196 included sufficient employment data to permit an analysis of jobs created.

*This lack of reporting underscores the need for better reporting requirements. Without transparency taxpayers will not be able to hold IDA's and subsidized businesses accountability.*

### **63% of the businesses didn't deliver the jobs** (but they still got to keep the subsidy)

- 63% (124 out of 196) of COMIDA projects hadn't delivered the jobs that the businesses promised.
- Of the 196 projects with sufficient reporting data, 27% lost jobs (54 out of 196), reporting fewer current jobs than the employment level before IDA status was granted. An additional 5 projects had no change in employment. (It should be noted that COMIDA is not required to report how many projects had not "ripened," meaning that there still could be time left to create the jobs. Once again, this points to the need for better reporting requirements).
- Only 52% of the projects that added jobs (72 out of 137) met or exceeded their job creation targets.

*The 34 COMIDA projects whose reports did not include data on employment in 2004 received \$4.4 million in benefits in 2002, 2003 and 2004. Did these projects create jobs or lose them?*

# Findings

<b>Ten COMIDA Projects with Highest Subsidies per Job Created</b>		
<b>Company</b>	<b>Jobs Created</b>	<b>Government Subsidy per Job Created</b>
99 Garnsey Road Associates and Granite Building	6	\$77,800
Paychex, Inc. (Webster)	24	\$75,044
LeFrois Development LLC	2	\$25,233
Tile Wholesale of Rochester	1	\$21,674
Medvest Management Ltd.	10	\$20,329
Meridian Center Associates	12	\$19,133
Norman Holland and Andre	4	\$18,974
Dayton Rogers Corporation	4	\$17,692
Elmgrove Ventures LLC	10	\$16,351
Sweden Industrial Center	21	\$15,357

<b>Ten COMIDA Projects with Largest Job Losses</b>		
<b>Company</b>	<b>Jobs Lost</b>	<b>Three Year Total of Government Subsidies Received</b>
Alstrom Signaling, Inc.	(646)	\$35,551
140 Canal View LLC	(332)	\$171,809
General Railway Signal Cor	(304)	\$13,909
SCP 2004G, Lo	(273)	\$551,752
Genencor International, Inc.	(176)	\$89,746
New Horizons Hospitality	(127)	\$28,695
Ten Cate ENBI Inc.	(123)	\$2,752
1225 Jefferson L. P.	(99)	\$87,645
The Tiffen Company	(91)	\$17,598
ENI	(91)	\$56,794

# Findings

## Ten COMIDA Projects with Largest Gaps between Jobs Promised and Jobs Created

Company	Jobs Promised	Jobs Created (Lost)	GAP	Three Year Total of Government Subsidies Received
Alstrom Signaling, Inc.	25	(646)	(671)	\$35,551
16 West Main, LLC	500	-	(500)	\$71,293
140 Canal View LLC	150	(332)	(482)	\$171,809
ADT Security Systems	629	297	(332)	\$95,427
General Railway Signal Cor	25	(304)	(329)	\$13,909
AJL Manufacturing	232	(72)	(304)	\$300,695
Bausch & Lomb	663	366	(297)	\$865,649
Genencor International, Inc.	100	(176)	(276)	\$89,746
SCP 2004G, Lo	-	(273)	(273)	\$551,752
ADT Security Systems	205	(60)	(265)	\$196,791

## Summary of COMIDA Data

	Number of Projects	Three-year Total Exemption Value	Jobs Promised	Change in Jobs
All projects included in OSC data base for 2002,2003,20004	531	\$24,429,021	31,952	-8,551
All projects for which there were tax exemptions	228	\$24,429,041	14,678	7,102
All projects for which there were tax exemptions and sufficient employment data	196	\$20,001,798	12,357	7,102
Projects with job losses	54	\$4,602,547	2213	-3,331
Projects with job gains but did not meet target	70	\$7,795,393	7,194	3,281
Projects that met or exceeded job targets	72	\$7,603,858	2,950	7,152

# Egregious Examples

In Monroe County we have also seen questionable tax breaks given to local retail and service businesses.

State law currently allows local IDA's to shuffle jobs around the area without a net job gain. Exemptions for tourism, corporate headquarters and depressed areas are being misused around the state to allow tax breaks for retail and service businesses which, given a fixed market, do not create any new jobs.



The Elmwood Dental Group received EquiPlus sales tax exemption for the purchase of dental equipment and renovations. 2004



Basil's Restaurant received a Sale/leaseback w/JobsPlus for an amphibious aircraft entry area.

# Egregious Examples



Lone Star Recreation, a multisport facility received EquiPlus sales tax assistance for the purchase of a synthetic turf surface. 2004



The DelMonte Lodge received a subsidy for the construction of a spa. 2004

# Conclusion

The New York State Industrial Development Agency system is out of control, lacking the most basic forms of accountability. The system needs to be reformed. Tax subsidies can be given out without any accountability and without regard for the impact on the community. Businesses are not required to report their progress and local IDA's are not required to hold businesses accountable for their lack of performance in meeting job creation goals. Local IDA's are not required to set basic standards for jobs created nor are local IDA's required to assess the impact of projects on the community.

Holding IDA projects accountable will not hurt our ability to develop New York's economy.

A recent study by Good Jobs First found that a rapidly-growing number of U.S. jurisdictions - at least 89 - now apply job quality standards to companies that receive economic development subsidies. The standards - including wage, healthcare, and full-time hour requirements - apply to deals in at least 43 states, 41 cities, and 5 counties. Many officials praised job quality standards as important tools to help them target subsidies to companies that create high-quality jobs, thereby avoiding the "hidden taxpayer costs" (e.g., food stamps,

Medicaid, and the Earned Income Tax Credit) generated by poverty-wage work.

Such standards will reward corporations that are creating jobs and raising wages. That will help the state's economy, not hurt it. These standards apply only to companies that are taking public assistance. If the company doesn't want to be responsible for results, it doesn't have to accept help from the taxpayers.

Tax incentives are only one factor in business decisionmaking in regards to relocation and expansion. Businesses consistently point to many other factors including the educational level of the work force, proximity to markets, excellence of infrastructure, utility costs and quality public services. In fact, according to Robert Alty, one of the most experienced site location consultants, "the single most important factor in site selection today is the quality of the available workforce." And that quality is undermined as school districts lose revenue to questionable IDA tax breaks.

If New York is going to continue the IDA program then the state needs to reform the system so that it is more efficient in promoting real economic development.

# Accountability Toolbox

It is time for the New York State Legislature to ensure that jobs are actually being created with the billions of dollars that our state and local governments hand out each year under the guise of economic development.

New York has an opportunity to gain much-needed reforms in the law when the Assembly and Senate negotiate the extension of the expiring portions of IDA law this year.

## We recommend the following changes:

### 1. Mandate Basic Standards

The standards applied to businesses applying for IDA assistance should be strengthened. Mandating basic employment, community, civil rights and environmental benefits standards on subsidy deals will ensure that subsidy recipients create quality jobs, meet community needs, and have a positive environmental impact in our neighborhoods. Such standards would include paying prevailing wage, hiring locally when possible, protecting greenfields and community benefits standards.

### 2. Develop Community Impact Reports (CIRs)

The IDA regulatory system in New York does not allow subsidies to retail businesses for good reason. Most retail and service businesses need to locate amidst their customers. A supermarket is not likely to relocate to Mexico if it does not receive tax subsidies.

Besides being fixed geographically, retail and service businesses also tend to operate in fixed markets. It does not make sense for IDA's to intervene in these fixed markets, favoring one competitor over another with a subsidy.

A CIR can be an essential tool in assessing the potential positive and negative impacts a proposed project will have for the communities where the

project will be located. The CIR would study, among other things, the quality of the jobs created or retained, the effect on housing in the area, the effect on open space and the effect on infrastructure, such as transportation, schools and water and sewers. IDA projects should create a net job gain to the community, not shuffle jobs around. An independently conducted CIR should be required of all subsidy applicants and should be conducted during the application process over a significant period of time from initial public disclosure of the project application to completion of the CIR. Subsidy approval should be conditional on the completion of a satisfactory CIR and on an agreement within the subsidy contract to address recommendations made in the CIR.

### 3. Improve Reporting Requirements

Improved reporting on subsidy contracts is necessary to make economic development more accountable to our communities. Statewide reporting standards would make certain that companies report progress on their commitments in a uniform and timely way and that local agencies use this information in making further subsidy decisions and also provide it to the public in a useful form.

### 4. Require Enforceable Clawback Penalties

# Accountability Toolbox

The subsidies afforded to IDA recipients should be retracted if a given establishment fails to meet the agreed-to contractual obligations. When entering into a contract with the IDA, the business should have to agree to job retention and creation goals and an enforceable clawback procedure. Clawbacks are a type of penalty through which a city or county cancels, reduces, or recovers a subsidy when the recipient fails to deliver on its contract obligations. In other words, if a company does not uphold provisions of the subsidy contract, the City can recapture its subsidy based on provisions established in the original agreement. Assuming stronger reporting requirements are in place, the locality will have adequate information to determine if subsidy recipients are meeting contractual obligations as established in the subsidy agreement.

## **5. Increase the Effectiveness of IDA Public Hearings**

Under current law, public hearings come at the end of the IDA review process and right before the IDA board is about to vote on a proposal. At the time these hearings are held, the IDA, its staff, its attorneys, and sometimes other consultants, as well as the project applicant, its staff, attorneys and consultants have frequently spent months if not years developing and refining a proposal. It is not surprising that by the time the public hearing is held, both sides in these negotiations are fully committed to the project to be voted upon. Public hearings at this point in the process are necessary, but the public must be given earlier notice of applications that have been filed with the IDA and some idea as to when those projects are likely to come up for a vote.

## **6. Ensure that IDAs are run transparently**

The IDA law should be amended to require that IDAs' standard tax exemption policies, hearings on deviations from these policies and copies of approved deviations are sent at least annually to the state and the chief executives and all members of governing boards of all affected local governments, that any changes to those standard tax exemption policies be transmitted promptly to those same officials, and that these policies and any changes be made available to the public and

be posted on the IDA's website.

Each IDA should be required to maintain, and make readily available to the state and all local elected officials and the public, a current schedule of all PILOT payments due each year and the amount of each such payment allocable to each taxing jurisdiction on whose behalf the PILOT is being collected and a list of project owners who are late making required PILOT payments, how much they owe and how long they have owed it.

## **7. Establish meaningful penalties for IDAs that violate Article 18-A's anti-piracy provisions**

In its decision *In the Matter of Main Seneca Corporation v. Town of Amherst Industrial Development Agency*; BDO Seidman, LLP, the New York State Court of Appeals held that the anti-piracy provisions of Article 18-A had been violated by the Town of Amherst IDA and upheld the penalty imposed by the lower court, that Uniland Partners repay the portion of the taxes that it had avoided in regard to the facilities occupied by the firm (BDO Seidman) that the Amherst IDA had illegally pirated from the City of Buffalo. It seems perverse that the Town of Amherst, on whose behalf the Amherst IDA was established and on whose behalf it operates should get a bonanza (the back tax payments) rather than a penalty. Amherst got the business which Buffalo lost and it, after the fact, got back the taxes that it had offered as an inducement to attract the business.

## **8. Ensure Broader Oversight and Coordination**

The first critical policy change for Industrial Development Agencies is enforcement of new and more stringent guidelines on board membership. In Monroe County the lawyer representing COMIDA has represented businesses applying to COMIDA. COMIDA board members have also served on the boards of organizations receiving COMIDA assistance. By establishing mechanisms to eliminate conflicts-of-interest and ensure cooperation among local IDAs and by setting broad board membership guidelines to require a blend of business, organized labor, educational, environmental and community representatives, we will gain better coordination and oversight and thus improved performance of our IDAs.