



Industrial Development Agency

PROJECT SPONSOR GUIDEBOOK

Glens Falls Industrial Development Agency

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GENERAL INFORMATION

I. Purpose and Benefits of IDA Financing

The City of Glens Falls Industrial Development Agency is a public benefit corporation organized under the laws of the State of New York. The purposes of the Agency are to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities and horse racing facilities and thereby advance the job opportunities, health, general prosperity and economic welfare of the City of Glens Falls and the residents thereof; and to improve their recreation opportunities, prosperity and standard of living.

The IDA accomplishes its purposes through the issuance of its Industrial Development Revenue Bonds, lease/sale agreements, installment sale agreements as well as various tax advantages. Generally, the interest earned on IDA bonds issued for manufacturing purposes is not included in the gross income of the bond holder for federal income tax purposes. Interest earned on IDA bonds issued for projects such as office buildings and shopping centers is not exempt for federal income tax purposes. Due to the particular structuring of the financing documents, purchases made for materials and equipment for an Industrial Development Agency project may be exempt from sales tax; and the project may be exempt from mortgage tax. Moreover, unlike municipal bonds, Industrial Development Revenue Bonds are available to fund most privately owned projects.

Also, although the private companies benefiting from such funding are technically exempt from local city, school and county property taxes, a Payments in Lieu of Taxes Agreement (PILOT) is entered into between the IDA and any applicant for Industrial Development Agency involvement whereby that applicant contractually agrees to make payments in lieu of the taxes it would be liable for if it were not an Industrial Development Agency funding. These PILOT Agreements are used as an incentive for business to locate in Glens Falls. Although the Developer initially pays less taxes than it would if the project were privately owned, there is no decrease in the local tax base due to such projects. In fact, there will normally be a net increase in the amount of tax revenue to the local taxing authorities, as is the case when a vacant or run-down parcel is developed into a productive parcel through IDA funding. Consequently, the only impact on the local community is a positive one, as both temporary and permanent jobs are created, the tax base is maintained or increased, the economic potential of the city is further developed, and additional dollars are injected into the local economy.

It is this availability of the beneficial PILOT Agreements, sales and mortgage tax treatment usually afforded only to municipalities which make Industrial Development Agency projects attractive to private businesses.

II. Members of the Agency

The members of the City of Glens Falls Industrial Development Agency are appointed by the Mayor, reside in the City of Glens Falls, and serve without pay.

III. Summary of Steps Involved

The following is a general overview of the steps involved in the process of IDA Financing:

1. Application prepared and submitted to the Agency, together with supporting documents.

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2. Detailed review of application by the Agency.
 3. Submission of additional information if required to permit the IDA to fully and completely review the Application.
 4. Application and supporting documents submitted to the Agency for economic impact analysis.
 5. Application and supporting documents delivered to Members for their review, together with Consultant's report on economic impact.
 6.
 - a) IDA reviews application.
 - b) IDA performs an environmental review of the proposed project, when required.
 - c) SEQRA Notices and Waiting Periods, when required.
 - d) IDA and applicant agree upon terms of Payments in Lieu of Taxes Agreement.
 - e) Inducement Resolution voted on by the IDA.
 - f) Preliminary Agreement executed between IDA and applicant.
 7. Request for tax-exempt bond allocations from N.Y.S. Department of Commerce (Tax-exempt projects).
 8. Public Hearing on proposed project, when required (Tax-exempt projects; TEFRA requirement).
 9. Applicable elected representative approves project (Tax-exempt projects; TEFRA requirement).
 10. Applicant and bond purchaser negotiate terms of bonds.
 11. Applicant obtains bond purchase commitment letter.
 12. Negotiation of terms of Financing documents between legal counsel to IDA, counsel to applicant, counsel to bond purchaser, and bond counsel.
 13. Financing Resolution voted on by IDA.
 14. Closing - execution of Financing Documents.
 15. Copies of PILOT Agreement are distributed to City Treasurer, City Assessor, County Treasurer and Superintendent of Schools.
 16. Annual Reporting Requirements.

IV. Costs Involved in Financing the Project

An application fee must accompany each application for IDA Financing. In addition, an administrative fee is charged. A current fee schedule is made available to each applicant.

Legal fees constitute the bulk of the remaining costs involved. The nature and amount of the applicant's legal fees depend on whatever arrangements it makes with its own attorneys.

The Applicant is also responsible for the IDA's legal counsel fees and for any disbursements regarding its

project made by the IDA's legal counsel or by the IDA itself.

The IDA's legal counsel fees are based on the number of hours spent on the project. After a review of the extent and complexity of each project, Agency counsel will quote a maximum fee for the project.

The bond counsel for an IDA issue must be approved by the ultimate bond purchaser and by the IDA. The nature and amount of bond counsel fees vary.

In some cases, especially those projects involving smaller bond issues, the IDA's general counsel will prepare the bond documents and give a legal opinion acceptable to the Lender. This is done to reduce the cost to the developer of smaller projects in an effort to contain costs for smaller projects.

The legal and administrative fees of the bond purchaser will vary and can be ascertained when discussing the proposed bond purchase with prospective buyers. The applicant can anticipate that such costs will be passed through to it by the bond purchaser.

Any accounting services required by the applicant for planning the financing will increase the costs of financing the project.

All of the above costs should be considered in planning the project. These costs may be reimbursed to the applicant through the bond proceeds. Consequently, they should be considered and included in the applicant's proposal for bond financing set forth in the Application.

INDUSTRIAL DEVELOPMENT REVENUE BOND FINANCING

In order to promote economic development, the Glens Falls IDA is authorized to issue both tax-exempt and taxable industrial development revenue bonds. The Agency issues these bonds for businesses that either wish to locate or expand their operations in the City of Glens Falls. Typical projects eligible for financing include the purchase and rehabilitation of existing buildings, the construction of new buildings, or the construction of additions to existing facilities. Machinery and equipment may also be financed with IDA bonds. However, in most cases machinery and equipment is financed in conjunction with the purchase of an existing building or the construction of a new facility.

The IDA acts as a financing conduit through which the transaction takes place. ALTHOUGH THE AGENCY ISSUES THE BONDS, IT DOES NOT ACTUALLY LOAN ANY MONEY TO THE COMPANY. Rather, a financial institution loans the funds to an applicant, through the IDA. Typically, a bank or an underwriter will purchase the bonds and, in effect, make the loan. Essentially, it is the responsibility of the company to discuss with lending institutions their interest in purchasing the Agency's bonds to finance the project. However, an Agency representative can help arrange these discussions and suggest institutions which might be most receptive. The lending institution reviews the project and makes the credit decision as to whether or not to purchase the bonds. In addition, the company and financial institution negotiate the terms and conditions of the loan (its length, interest rate, etc.) independently of the IDA.

THE BONDS ARE SECURED BY THE FINANCIAL STRENGTH AND CREDIT OF THE APPLICANT. Normally, the loan is secured by a mortgage on the facility financed with the bonds. However, additional guarantees and collateral may be required by the lending institution similar to what may be the case in a conventional financing. This means that IDA approval of a project does not automatically result in funding being available. The applicant is responsible for the repayment of the bonds. NEITHER THE AGENCY, THE CITY, NOR THE STATE GUARANTEE ANY SUCH INDEBTEDNESS.

The Glens Falls Industrial Development Agency issues both tax-exempt and taxable industrial development revenue bonds for the acquisition, construction, and equipping of manufacturing, commercial and civic facilities. Tax-exempt bonds are regulated by federal tax law. The interest income on tax-exempt bonds is exempt from federal and state income tax. Interest income on taxable bonds is exempt from State income tax only. In addition to the reduced interest rate on the bonds, an IDA-financed project is exempt from paying sales tax and mortgage recording tax, and is eligible for property tax abatements.

There are four bond financing mechanisms available through the IDA:

1. Tax-exempt bonds - Manufacturing facilities can be financed with tax-exempt bonds.
2. Taxable bonds - Commercial non-manufacturing projects such as office buildings, hotels and retail stores qualify for taxable bonds.
3. Tax-exempt and taxable bonds - A combination of tax-exempt and taxable bonds can be issued for projects that include both manufacturing and non-manufacturing activities.
4. Refunding bonds - Projects which were previously assisted with tax-exempt bonds are allowed to repay/refund the outstanding principal amount of the "old" bonds with new tax-exempt refunding bonds bearing a lower interest rate. Refunding at lower interest rates allows companies to remain competitive in Glens Falls by reducing their facility costs.

COMPARISON OF TAX-EXEMPT AND TAXABLE BOND PROJECTS

	Tax Exempt	Taxable
1 Interest Rate	Depends upon Bond Purchaser (70/75% of Prime - Investment Banker; 90/95% of Prime - Commercial Banker)	Subject to Market Conditions (similar to commercial rates prime to 2 points above prime)
2 Federal Income Tax on Interest Income	Exempt	Taxable
3 New York State Personal Income Tax on Interest Income	Exempt	Exempt
4 New York State Franchise Tax on Interest Income	Taxable	Taxable
5 Other Considerations	Subject to all Federal Regulations/Requirements & Prohibitions Governing Tax- Exempt Bonds	Not Applicable

CRITERIA FOR CONSIDERING IDA APPLICATIONS FOR NON-MANUFACTURING FACILITIES

The Glens Falls Industrial Development Agency will use the following criteria for reviewing IDA applications for commercial and office building facilities:

1. Taxable bond financing only:

Since these types of projects are not eligible for tax-exempt bonds under current tax law, they would not be competing with manufacturing projects for tax-exempt bond allocation. Therefore, the issuance of taxable bonds for non-manufacturing projects would not limit the Agency's ability to continue to issue tax-exempt bonds for manufacturers.

2. Significance of the proposed project:

Taxable bond applications for commercial or office building facilities will be reviewed by the Agency in order to determine whether or not they would have a significant beneficial impact upon the City's economy. Measures of significance would include, but not be limited to, the following:

- Jobs: Number and type of jobs created by the project.
- Tenant Characteristics: Back office operations expanding or relocating into Glens Falls; corporate headquarters; moderate priced rental space for start-up and small businesses; incubator space for research and development.
- Cost Benefit: IDA financing results in better building; lower rents; expanded project scope.
- Uniqueness: Building serves previously under-served segment of rental market; upgrades a distressed area; project provides amenities for the public; project is supported by the community.

NOTE: The above significance indicators are not in priority order. They are simply meant as measurements to be used when reviewing each application on its merits.

INCENTIVE GUIDELINES/CONSIDERATIONS

A. Sales Tax

1. Agency Projects provide sales tax exemption during initial construction and equipping of facility only. Does not provide on-going sales tax exemption for operating expenses.
2. Sales tax exemption agreement has an expiration date, based upon estimated completion date plus six months to allow for possible delays and equipping. Extension of expiration dates must be approved by the Board.
3. Estimates and/or actual sales tax savings for Section 859 Reports are provided at year end to the Agency.

B. Mortgage Recording Tax

1. All GFIDA projects are eligible for exemption from mortgage recording tax.

C. Uniform Tax Abatement Policy

1. GFIDA provides at a minimum 485(b) real property tax abatements for all IDA projects.
2. Manufacturing/R&D/Warehouse/Office Projects (minimum of 10 net new jobs):
Eligible projects are limited to manufacturing, warehouse, wholesale/distribution, assembly re-manufacturing, processing, product research and development, and certain office functions. Eligible office projects include the following functions: communications, computer programming, data processing, financial services (not real estate, insurance or travel agencies), or central administrative offices. Minimum number of jobs is waived for projects to be located in buildings vacant for more than one year. Also applies to eligible projects to be located in “highly distressed” areas.

Base PILOT

Continue to pay 100% of taxes on existing land and buildings.

Continue to pay 100% of water, sewer and special assessments.

PILOT on New Construction:

100% exemption for a period of 5 years;

50% exemption for the next 5 years;

100% of taxes after year 11.

3. All Other Eligible Projects (minimum of 25 net new jobs):
Eligible projects permitted by General Municipal Law, including but not limited to professional agencies, recreation facilities, railroad facilities, and “qualified” retail and “qualified” civic facilities. “Qualified” civic facilities and retail projects are those authorized by the General Municipal Law.

Base PILOT

Continue to pay 100% of taxes on existing land and buildings.

Continue to pay 100% of water, sewer and special assessments.

PILOT on New Construction:

50% exemption for a period of 5 years;

25% exemption for the next 5 years;

100% of taxes after year 11.

D. Enhanced Real Property Tax Abatements

The Glens Falls Industrial Development Agency will consider providing enhanced real property tax abatements for IDA applicants who are proposing projects of great economic impact.

Any enhanced abatement will be provided only on the increased assessed value attributable to the improvements resulting from the proposed project. Current property tax levels already in place will continue to be paid on an existing building.

Proposed enhanced abatements will be considered on a case-by-case basis and may be up to 100% abatement on the improvements for a period of up to 15 years.

The Glens Falls IDA will use the following criteria for considering the provisions of enhanced real property tax abatements:

1. Number of jobs to be created.
2. Quality of jobs to be created (i.e., wages and benefits).
3. Capital investment by Company.
4. Brownfield and/or dilapidated site.
5. Extent to which local suppliers, contractors and workers are involved in the construction of the project.

PLEASE NOTE: The provision of enhanced real property tax abatements is a discretionary policy. The Glens Falls IDA will consider providing the enhanced abatement based upon the above guidelines. Each project will be reviewed on a case-by-case basis in determining whether such a project is eligible for the added incentive.

RECAPTURE OF BENEFITS POLICY

For companies receiving real property tax abatements the recapture of benefits schedule (applicable to the real property tax abatements) is as follows:

Within 1 year	100%
Within 2 years	100%
Within 3 years	75%
Within 4 years	50%
Within 5 years	25%
After 5 years	0%

The time period above is from the effective date of the PILOT Agreement. Imposition of any of the recapture is at the sole discretion of the IDA and is reviewed/considered on a case-by-case basis. Reasons for the recapture of benefits include the following:

1. Sale or closure of the facility and departure of the company from the City of Glens Falls.
2. Significant change in the use of the facility and/or the business activities of the company.
3. Significant employment reductions not reflective of the company's (normal) business cycle and/or local and national economic conditions.

NOTE: The Agency, at its discretion, reserves the right to deviate from its Recapture of Benefits Policy, and to impose more severe penalties and restrictions.

ANNUAL REPORTING REQUIREMENTS OF THE AGENCY

- I. Every developer seeking IDA financing shall be required to execute an agreement whereby they agree to complete and submit to the Agency annual reports within 60 days after the close of the Agency's fiscal year (1/1 to 12/31). The reports shall be in the form prescribed by the Agency, as amended from time to time.
- II. The failure of a developer to complete and submit the required forms may result in cancellation of all tax benefits and the recapture by the Agency of all tax benefits previously received by the developer. -
- III. Copies of the current report forms are available from the Agency on request.

NEW YORK STATE FINANCIAL REPORTING REQUIREMENTS FOR INDUSTRIAL DEVELOPMENT AGENCIES

The IDA is required to transmit financial statements within 90 days following the end of an Agency's fiscal year (FY = ill - 12/31), prepared by an independent, certified public accountant, to the New York State Comptroller, the Commissioner of the New York State Department of Economic Development, and the governing body of the municipality for whose benefit the Agency was created (City of Glens Falls). These audited financial statements shall include supplemental schedules listing the following information:

1. All bonds and notes issued, outstanding or retired during the period and whether or not they are obligations of the Agency.
2. All new bond issues shall be listed and for each new bond issue, the following information is required:
 - a. Name of the project financed with the bond proceeds.
 - b. Name and address of each owner of the project.
 - c. The amount of tax exemptions granted for each project.
 - d. Purpose for which the bond was issued.
 - e. Bond interest rate at issuance and, if variable, the range of interest rates applicable.
 - f. Bond maturity date.
 - g. Federal tax status of the bond issue.

ENVIRONMENTAL REQUIREMENTS

In addition to complying with all SEQRA requirements/procedures the GFIDA also requires the following environmental documentation:

1. When a financial institution requires that an independently certified Phase I environmental audit be performed, the Agency is to be included as one of the recipients of the audit report.
2. In cases where the bond is purchased by a related entity to the application, such as the parent company, full disclosure is required as to all outstanding environmental problems or violations, if any, and the steps being taken to rectify such problems or violations.
3. In addition to the above, an Environmental Indemnification Agreement is to be signed by all applicants and other respective parties. This Agreement is to be included as a standard document in all future IDA financing.

FEES AND AGENCY'S COSTS

1. **Application Fee:** The Agency has established an application fee of FIVE HUNDRED DOLLARS (\$500.00) to cover the anticipated costs of the Agency in processing the application. A check or money order made payable to the Agency must accompany each application. THE APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS ACCOMPANIED BY THE APPLICATION FEE.

If the extension of the time line set forth in the Inducement Resolution for a project is requested, a renewal fee of TWO HUNDRED FIFTY DOLLARS (\$250.00) must be paid at the time of the request.

2. **Administrative Fee:** The Agency has established an administrative fee to be paid by the applicant upon successful conclusion of the sale of the bonds, procurement of substitute financing, or closing a straight lease transaction, said fee being intended to cover the indirect expenses incurred by the Agency in administering the project. The administrative fee will be calculated according to the following schedule applied to the aggregate principal amount of the bonds issued or of the entire project cost in the event of substitute financing or straight lease transactions:

Amount of Bonds/Cost of Project	Applicable Percentage
First \$10,000,000	0.75%
Next \$10,000,000	0.50%
Next \$10,000,000	0.25%
Portion Over \$30,000,000	0.125%

3. **Agency's Costs:** The applicant will be required to pay to the Agency all actual costs incurred in connection with the application and the project contemplated herein (to the extent such expenses are not paid out of the proceeds of the Agency's bonds issued to finance the project). The costs incurred by the Agency, including the Agency's legal fees, and other "soft costs" such as bond counsel and accountant fees, may be considered as a part of the costs of the project and included in the calculation of the amount of the Industrial Development Revenue Bond issue.
4. **Security Deposit:** To ensure that the Agency's costs are reimbursed if the project does not proceed, applicant shall pay to the Agency a security deposit equal to one-half of one percent (0.5%) of the cost of the project or \$10,000.00, whichever is greater. The maximum initial deposit is set at \$25,000.00. Payment shall be made prior to passage of an Inducement Resolution for the project.

In the event that prior to closing the actual costs incurred, or anticipated costs to be incurred, by the Agency equal or exceed the original security deposit, the Agency may require an additional security deposit before incurring any additional expense and proceeding with the project.

At the time of closing, or in the event the project is discontinued, after reimbursement of the Agency's costs, any excess funds shall be returned to the applicant. Should the Agency's costs exceed the deposit, applicant shall pay the Agency the difference between the costs and the deposit.

The Agency reserves the right to deviate from the foregoing based upon the size and nature of the project and the financial strength of the applicant.

APPENDIX A

GUIDELINES FOR ACCESS TO EMPLOYMENT OPPORTUNITIES PURSUANT TO THE PRIVATE ACTIVITY BOND ALLOCATION ACT OF 1989

I. Definitions

- A. “Industrial or Manufacturing Project” means a manufacturing facility, as such term is defined in Section 144(a)(12)(C) of the Internal Revenue Code of 1986, as amended.
- B. “Issuer” means any entity authorized to issue Qualified Small Issue Bonds.
- C. “New Employment Opportunities” mean permanent positions created in connection with Industrial or Manufacturing Projects financed through the issuance of Qualified Small Issue Bonds.
- D. “Qualified Small Issue Bonds” or “Bonds” mean those bonds described in Section 144(a) of the Internal Revenue Code of 1986, as amended.
- E. “Project Beneficiary” means the nonexempt person in whose trade or business the proceeds of Qualified Small Issue Bonds are used.

II. Job Listing Procedures

- A. Prior to the expenditure of Qualified Small Issue Bond proceeds for Industrial or Manufacturing Projects, all Issuers shall require that the Project Beneficiary complete an employment plan (hereinafter referred to as “Employment Plan”) describing the following information, in a format acceptable to the Agency.
 - 1. current and planned occupations in the company;
 - 2. the current number of jobs per occupation;
 - 3. a projection of the number of New Employment Opportunities during the first, second and third operational years of the Industrial or Manufacturing Project; and
 - 4. information on estimated hiring dates for the number and types of positions to be filled and any special recruitment or training efforts that may be required.
- B. All Issuers shall submit copies of each such Employment Plan to:
 - 1. the local service delivery area office created pursuant to the Job Training Partnership Act;
 - 2. the local New York State Jobs Service Division; and
 - 3. the Regional Office of the New York State Department of Economic Development in the locality in which the Industrial or Manufacturing Project is located.

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- C. Furthermore, prior to the expenditure of Bond proceeds for Industrial or Manufacturing Projects, all Issuers shall arrange a meeting between the representative of the local service delivery area, the job service superintendent and the Project Beneficiary for the purpose of supplying information about projected New Employment Opportunities. Such Issuers shall notify the Regional Office of the New York State Department of Economic Development, in advance, as to the time and location of each such meeting.

III. Hiring Requirements

In connection with Qualified Small Issue Bonds issued for an Industrial or Manufacturing Project, Issuers shall require Project Beneficiaries to agree, subject to the requirements of any existing collective bargaining agreement, to first consider for New Employment Opportunities, persons eligible for service under the Job Training Partnership Act.

IV. Recordkeeping and Reporting

- A. All Issuers shall maintain an Employment Plan for each Industrial or Manufacturing Project on file as part of the record of the Qualified Small Issue Bond financing. The Commissioner of Economic Development may at any time require production of such records.
- B. On or before January 15th of each year, all Issuers affected by the foregoing requirements shall report to the Department of Economic Development regarding the status of the Employment Plans, including the number of New Employment Opportunities created, the number listed, and the number filled, using the Employment Plan Status Report form, available on request. All Issuers shall require Project Beneficiaries to provide such data on a timely basis for inclusion in the Issuer's January 15th report. All Issuers' reports shall be filed with: New York State Department of Economic Development, Regional Technical Services, One Commerce Plaza, Albany, New York 12245.

V. Miscellaneous

- A. All Issuers shall require each Project Beneficiary, in consideration of the issuance of Bonds for Industrial or Manufacturing Projects, to agree to perform the requirements of Section 6 of the Private Activity Bond Allocation Act of 1989 and these Guidelines. Recommended contractual language is available from the Agency.
- B. Nothing in these Guidelines shall be construed to require a Project Beneficiary to violate any existing collective bargaining agreement with respect to the hiring of new employees.
- C. Failure to comply with the requirements of these Guidelines shall not affect the allocation of Statewide bond volume ceiling to any Issuer, or the validity or tax exempt status of Qualified Small Issue Bonds.

VI. Applicability

The foregoing Guidelines for Access to Employment Opportunities shall apply to Qualified Small Issue Bonds issued for Industrial or Manufacturing Projects on and after September 15, 1989, provided, however, that the Guidelines shall also apply to such Bonds issued on and after July 10, 1989, to the extent possible.