1. Approval of Minutes — March 21, 2016
2. Results of ECIDA's 2017 Performance Measures (Adopt) (to be distributed at meeting)
3. ECIDA Mission Statement & 2018 Performance Measures (Adopt) (to be distributed at meeting)
4. 2017 PAAA Annual Report (Adopt) (to be distributed at meeting)
5. Board of Directors 2017 Self-Evaluation (informational)
6. Governance Committee 2017 Self-Evaluation
7. Re-Adoption of ECIDA/RDC/ILDC Policies
   a. Code of Ethics
   b. Whistleblower Policy
   c. Governance Committee Charter
   d. Property Disposition Guidelines
   e. Property Acquisition Policy
   f. Defense & Indemnification Policy
   g. Board Member Compensation, Reimbursement & Attendance Policy
   h. ECIDA Employee Compensation Program
   i. Travel, Conferences, Meals & Entertainment Policy
   j. Statement of Duties & Responsibilities of the Board of Directors
   k. Statement of the Competencies & Personal Attributes Required of Board Members
8. Adoption of ECIDA/RDC/ILDC Policies
   a. Procurement Policy
   b. Professional Services RFP Process
9. PARIS Report Update (informational)
10. 2017 Local Labor Report Update (informational)
11. Board Member PAAA Training Update (informational)
12. Adjourn
MINUTES OF A SPECIAL MEETING OF THE
JOINT GOVERNANCE COMMITTEE OF THE
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (ECIDA),
BUFFALO & ERIE COUNTY REGIONAL DEVELOPMENT CORP. (RDC)
AND
BUFFALO & ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORP. (ILDC)

MEETING: March 21, 2016, at the Erie County Industrial Development Agency, 95 Perry
Street, Suite 403, Buffalo, New York 14203

PRESENT: Hon. Diane Benczkowski, Brenda W. McDuffie, Frank B. Mesiah, and Dr. Carol Nowak

ABSENT: Hon. Edward A. Rath, David J. State and Maria Whyte

OTHERS

PRESENT: John Cappellino, Executive Vice President; Andrew Schoepfich, Treasurer;
Mollie Profic, Assistant Treasurer; Dawn Boudreau, Compliance Officer; Jerry
Manhard, Loan Officer; and Pietra G. Lettieri, Assistant Secretary

GUESTS: Andrew Federick, Erie County Senior Economic Development Specialist

There being a quorum present at 12:11 p.m., Ms. McDuffie called the meeting to order.

GOVERNANCE COMMITTEE 2015 SELF-EVALUATION

Ms. Boudreau discussed the 2015 Self-Evaluation and explained that the evaluation is
required to be completed by the Governance Committee members, and the questions track
responsibilities that are set forth in the Committee’s Charter. There being no further comments,
Ms. McDuffie directed that the report be received and filed.

PARIS REPORT UPDATE

Ms. Boudreau explained PARIS reporting requirements require the collection of
information regarding Board members, Staff, etc. She noted the Agency is on target for a
March 31st completion date, which is in accordance with the deadline required by the Authority
Budget Office.

2015 LOCAL LABOR REPORT UPDATE

Ms. Boudreau reported there are currently no violations of the Agency’s Local Labor
Policy requirements. She then reviewed the quarterly 2015 Local Labor report results with the
Committee members. The report provides an overview of the percentage of workers employed by an Agency project residing both outside Western New York, and within the eight counties of Western New York, for each of the quarters covered by the report. Ms. Boudreau noted the report is completed by gathering information which is self-reported from project operators, on a form that is provided to them by the Agency Staff. The report requests information on the zip code of each worker on the respective project. Ms. McDuffie inquired whether Staff could provide a breakdown of the various zip codes represented in each of the quarters and projects. She would like to know if there are certain zip codes with historically high levels of poverty that are being represented in the workforces of the Agency’s induced projects. Ms. Boudreau responded that this information could be collected and reported. Ms. Boudreau explained the raw data going into the report is tracked by county. Ms. McDuffie noted, in the future, the Committee may wish to track labor participation by zip code, the additional information can support other goals the community is interested in, and such as improving employment opportunities in areas of high poverty and high unemployment.

BOARD MEMBER PAAA TRAINING UPDATE

Ms. Boudreau reported there are six board members who have yet to be trained, and four of those six members are new to the Board. Ms. Boudreau reminded the Committee there is refresher training required of Board members every three years. Ms. Boudreau sends out schedules of available training sessions. All April sessions are filled, but Ms. Boudreau will send more notices as they become available.

MINUTES

The November 30, 2015 minutes of the joint meeting of the Governance Committee of the ECIDA, RDC and ILDC were presented. Upon motion made by Mr. Mesiah, and seconded by Ms. Benczkowski, the approval of the November 30, 2015 meeting minutes was unanimously carried.

RESULTS OF ECIDA’S 2015 PERFORMANCE MEASURES

Mr. Schoeppich introduced a report explaining the mission statement and the performance measures for the ECIDA and its affiliates. The report outlines the Agency’s mission, goals, and objectives and how the organization has achieved the goals, with metrics to support the conclusions. Specifically, Mr. Schoeppich reviewed the Agency’s goals to support business formation, job growth, and economic expansion with a concentration on underserved markets. He then reviewed the 2015 results in these areas, for both the ECIDA and RDC, noting the ECIDA engaged in private sector investment of 44.8 million dollars and provided $100,000 in funding to the Buffalo Urban Development Agency to fund operating costs associated with the Buffalo Building Reuse project. With regard to the RDC, Mr. Schoeppich reported the RDC funded eight loans totaling 5.9 million dollars, with an additional tax incentive project in the amount of 95 million dollars for the Pilgrim Village project.
Next, Mr. Schoepich reviewed the objectives of the goals, namely; to support creation of new jobs at all salary levels. Ms. McDuffie questioned whether the Agency is including executive and CEO jobs when reporting retention results. Mr. Schoepich responded in the affirmative. Ms. McDuffie stated the numbers may be skewed if executive and CEO positions are included. Therefore, Ms. McDuffie requested the Committee be conscious of the wording of the results, and focus on new job creation and the breakdown between new jobs and existing executive positions. Additionally, Ms. McDuffie expressed her desire to show categories of jobs and to be able to sort data to show categories of jobs created; for example, advanced manufacturing jobs verses retail.

Mr. Mesiah noted he is part of a group researching African-American and Latino unemployment statistics in the region, and the group has found that Caucasians outnumber minorities by 2 to 1 in working jobs. Mr. Mesiah noted his working group sees different statistics than those reported in the Agency’s figures, and expressed a concern for addressing these issues such that the salary gap in the minority community closes. Mr. Schoepich responded that there are two initiatives that the Agency supports, including the Beverly Grey Initiative and a BNE workforce study, which will assist in addressing Mr. Mesiah’s issues. Ms. McDuffie noted there are good points made on all sides, acknowledging African-American and Latinos are also paid significantly less in their jobs, and it is important that we correct the problems the community is facing.

Mr. Schoepich then reviewed the Agency’s results with regard to encouraging international trade, remarking the Agency is waiting on data to provide in this report and they have until the end of the month to do so. Upon motion made by Ms. Nowak and seconded by Mr. Mesiah, a motion to adopt the ECIDA’s 2015 Performance Measures was unanimously carried.

**ECIDA 2016 PERFORMANCE MEASURES**

Ms. McDuffie requested that Staff, in the future, set a baseline to show where the Agency is and where it goes in terms of improvements noting that the Agency needs a point of comparison to show improvement or change from prior reports. Mr. Weathers noted other economic development entities typically use a three year rolling average to allow for adjustments in economic trends. Mr. Schoepich stated Staff will add a three year average to its reported statistics for consideration at the March meeting. Upon motion made by Mr. Mesiah and seconded by Ms. Benczowski, a motion to adopt the ECIDA’s 2016 Mission Statement and Performance Measures with modifications to include a three year rolling average was unanimously carried.

**2015 PAAA ANNUAL REPORT**

Ms. Boudreau reviewed the PAAA annual report required by the Authority Budget Office. She noted the report is made available on the Agency’s website and Mr. Schoepich and Mr. Weathers will certify as to its contents. Upon motion made by Mr. Mesiah and seconded by Ms. Nowak, a motion to adopt the 2015 PAAA Annual Report was unanimously carried.
BOARD OF DIRECTORS 2015 SELF-EVALUATION

Ms. Boudreau then reviewed the summary results of the confidential evaluations of Board performance submitted by Board Members, noting there were some differences between the 2014 and 2015 reports. A general discussion ensued regarding the 2015 responses. Ms. McDuffie noted she will remind members that they can request additional information on topics discussed at board meetings. Ms. McDuffie suggested Staff may want to provide an area on the confidential evaluation to allow for additional comments or for Board members to elaborate on those criteria they disagree with. Ms. Boudreau reported Staff will amend the evaluation form for next year to accommodate Ms. McDuffie's recommendations.

RE-ADOPTION OF ECIDA/RDC/ILDC POLICIES

Ms. Boudreau explained all policies were forwarded to outside counsel, Harris Beach, for review and no changes were made.

ADOPTION OF ECIDA/RDC/ILDC POLICIES

Code of Ethics. Ms. Lettieri provided a review of the revised Code of Ethics Policy, explaining that the revisions made coincide with the recommended best practices put forth by the Authorities Budget Office. Ms. McDuffie asked Ms. Lettieri for a summary of the changes of the Code of Ethics Policy, to be prepared and submitted to the Board for consideration at its general meeting. Upon motion made by Mr. Mesiah and seconded by Ms. Benczkowski, a motion to approve the revised Code of Ethics policy was unanimously carried.

There being no further business to discuss, upon motion made by Ms. Benczkowski and seconded by Mr. Mesiah, the meeting was adjourned at 1:10 p.m.

Dated: March 21, 2016

______________________________
Pietra G. Lettieri, Assistant Secretary
Erie County Industrial Development Agency (ECIDA), Buffalo and Erie County Regional Development Corporation (RDC), and Buffalo and Erie County Industrial Land Development Corporation (ILDC)

2017 Governance Committee Self-Evaluation

Responsibilities of the Governance Committee:

The core responsibilities of the Governance Committee, as mandated under Section 2824(7) of the New York Public Authorities Law, are set forth in the Bylaws and include: (i) keeping the Board informed of current best governance practices; (ii) reviewing corporate governance trends; (iii) updating the Agency’s corporate governance principles; and (iv) advising those responsible for appointing members to the Board on the skills and experiences necessary required of potential Board members.

<table>
<thead>
<tr>
<th>Governance Committee Self-Evaluation</th>
<th>Yes</th>
<th>No</th>
<th>Pending</th>
<th>Comments</th>
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</thead>
<tbody>
<tr>
<td>1. Are the members of the Governance Committee appointed in accordance with the Bylaws and are individuals appointed to the Governance Committee knowledgeable, or have expressed a willingness to become knowledgeable, in matters pertaining to governance?</td>
<td>✗</td>
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<td>2. Is each member of the Governance Committee an &quot;independent member&quot; within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as amended from time to time? Did Governance Committee members, who are members of the Agency, comply with the conflict of interest provisions applicable to public officers under Article 18 of the New York General Municipal Law?</td>
<td>✗</td>
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<td>3. Did the Governance Committee meet a minimum of once (1) each calendar year?</td>
<td>✗</td>
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<td></td>
<td>The Governance Committee met on 3/14/17 (no quorum). Although a quorum was not present, the Committee members who were present discussed the items addressed in this evaluation.</td>
</tr>
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<td>4. Were meeting notices and agendas prepared for each meeting and provided to Governance Committee members by electronic or regular mail at least five (5) days in advance of the scheduled meeting? Were minutes of all meetings recorded by the Secretary or any Assistant Secretary of the Agency? Did all meetings comply with the requirements of the Open Meetings Law?</td>
<td>✗</td>
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<tr>
<td>Governance Committee Self-Evaluation</td>
<td>Yes</td>
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<td>Pending</td>
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<td>5. Did the Governance Committee develop the Agency’s governance practices, which should address transparency, independence, accountability, fiduciary responsibilities and management oversight?</td>
<td>☒</td>
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<td>See Questions #6-#9 below.</td>
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<td>6. Did the Governance Committee develop a statement of the competencies and personal attributes required of Board members to assist those authorized to appoint members to the Board in identifying qualified individuals (it being acknowledged that membership in the Agency is determined pursuant to Section 891-a of the General Municipal Law)?</td>
<td>☒</td>
<td></td>
<td></td>
<td>A Statement of the Competencies and Personal Attributes is posted on the ECIDA website. It was approved by the ECIDA Board of Directors on 2/16/10. Revisions to this document were not necessary in 2017.</td>
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<td>7. Did the Governance Committee develop and recommend to the Board any revisions to the number and/or structure of Board committees?</td>
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<td></td>
<td>No additional committees were recommended by the Governance Committee in 2017.</td>
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<td>8. Did the Governance Committee develop and provide recommendations to the Board regarding Board member education, including new member orientation and regularly scheduled Board member training to be obtained from state-approved trainers as required under Section 2824(2) of the New York Public Authorities Law?</td>
<td>☒</td>
<td></td>
<td></td>
<td>New Board members participate in an orientation session and are provided with a New Member Orientation Manual. As of 12/31/17, 17 of 19 Board members have received the PAAA required training. All Board members received notifications regarding the PAAA training sessions.</td>
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<tr>
<td>9. Did the Governance Committee develop, review and recommend to the Board the adoption and/or revisions to the following: (i) the Agency’s Code of Ethics. (ii) written policies regarding conflicts of interest.</td>
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<tr>
<td>Governance Committee Self-Evaluation</td>
<td>Yes</td>
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<td>Pending</td>
<td>Comments</td>
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<td>(iii) written policies regarding the protection of whistleblowers from retaliation.</td>
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<td>Items i) &amp; ii) are included in the ECIDA Code of Ethics. The Governance Committee reviewed the Code of Ethics during its 3/14/17 Committee meeting. The Committee members who were present recommended that the Code cover committee members who are not members of the ECIDA/RDC/ILDC board of directors. The amended Code was adopted by the full Board during its 3/22/17 Board meeting.</td>
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<td>(iv) equal opportunity and affirmative action policies.</td>
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<td>(iii) In 2012, the Governance Committee approved a formal Whistleblower Policy. The Committee members who were present at the 3/14/17 meeting recommended that the Policy cover committee members who are not members of the ECIDA/RDC/ILDC board of directors. The amended Policy was adopted by the full Board during its meeting on 3/22/17.</td>
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<td>(v) written policies regarding procurement of goods and services, including policies relating to the disclosure of persons who attempt to influence the Agency's procurement process.</td>
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<td>iv) The ECIDA's EEO policy is included in the Personnel Handbook and the Procurement Policy.</td>
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<td>(vi) written policies regarding the disposition of real and personal property and the acquisition of property.</td>
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<td>v) The ECIDA Procurement Policy (which includes lobbying law restrictions) was reviewed by the Governance Committee on 3/14/17. It was re-adopted by the full Board during the 3/22/17 Board meeting.</td>
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<td>(vii) committee charters, including this Charter.</td>
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<td>vi) The ECIDA Property Disposition Guidelines were reviewed by the Governance Committee on 3/14/17. It was re-adopted by the full Board during the 3/22/17 Board meeting.</td>
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<td>vii) The ECIDA Governance Committee Charter was reviewed by the Governance Committee on 3/14/17. It was re-adopted by the full Board during the 3/22/17 Board meeting.</td>
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<tr>
<td>Governance Committee Self-Evaluation</td>
<td>Yes</td>
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<td>(viii) any other policies or documents relating to the governance of the Agency, including rules and procedures for conducting the business of the Agency’s Board, including the Agency’s Bylaws. The Governance Committee will oversee the implementation and effectiveness of the Bylaws and other governance documents and recommend modifications to the Board as necessary or appropriate.</td>
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<td>viii) The Governance Committee did not approve any additional policies in 2017.</td>
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<td>10. Did the Governance Committee:</td>
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<td>(i) report its actions and recommendations to the Board at each regular meeting of the Board following a meeting of the Governance Committee and when otherwise requested by the Board.</td>
<td>✗</td>
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<td></td>
<td>i) &amp; ii) As stated above, all policies/guidelines referenced above were adopted or re-adopted by the Board on 3/22/17.</td>
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<td>(ii) report to the Board, at least annually, regarding any proposed changes to this Charter.</td>
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<td>(iii) provide a self-evaluation of the Governance Committee’s functions to the Board on an annual basis.</td>
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<td>iii) On 3/14/17, the Committee performed a Self-Evaluation for the calendar year 2016 and provided a status report to the Board on 3/22/17.</td>
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</tbody>
</table>
Other Self-Evaluation Notes

1) In February 2017, the Governance Committee performed an ECIDA Board Member Self-Evaluation for the 2016 calendar year.

2) During its 3/14/17 meeting, the Governance Committee discussed the ECIDA's 2017 Mission Statement and Performance Measures. The full Board approved the Mission Statement and the Performance Measures during its 3/22/17 Board meeting.

3) The Governance Committee discussed and approved the 2016 Performance Measures Report & Results. The full Board approved this Report during its 3/22/17 Board meeting.

4) The Governance Committee reviewed the ECIDA/RDC/ILDC 2016 PAAA Annual Report. The Committee did not recommend any changes. The Board adopted the PAAA Annual Report during its 3/22/17 Board meeting.

5) The ECIDA’s Compliance Officer provided an update on the status of the ECIDA’s Public Authority Reporting Information System (PARIS) report to the Committee on 3/14/17.

6) During the Governance Committee meeting on 3/14/17, ECIDA’s Compliance Officer reported that there were no violations of the Agency’s Local Labor Policy in 2016.

7) The Committee reviewed the following policies during its meeting on 3/14/17: Property Acquisition Policy; Board Member Compensation, Reimbursement & Attendance Policy; ECIDA Employee Compensation Policy; Travel, Conferences, Meals & Entertainment Policy; and Statement of the Duties & Responsibilities of the Board of Directors. These policies were re-adopted by the Board during its 3/22/17 Board meeting.
Erie County Industrial Development Agency ("ECIDA"), Buffalo and Erie County Regional Development Corporation ("RDC"), and Buffalo and Erie County Industrial Land Development Corporation ("ILDC")

CODE OF ETHICS

This Code of Ethics is adopted upon approval by the respective Boards of each corporation in accordance with Section 2824 of the Public Authorities Law and applies to all members, directors, committee members, officers and employees of the Erie County Industrial Development Agency (ECIDA) and its affiliates: Buffalo and Erie County Regional Development Corporation (RDC), Buffalo and Erie County Industrial Land Development Corporation (ILDC) and any other affiliated entities that may hereafter be established by ECIDA (hereinafter collectively referred to as the "Agency").

This Code of Ethics shall serve as a guide for official conduct and is intended to enhance the ethical and professional performance of the Agency’s members, directors, officers and employees and to preserve public confidence in the Agency’s mission.

ARTICLE I
Conflicts of Interest

A conflict of interest is a situation in which the financial, familial, or personal interests of a member, director, officer or employee come into "actual" or "perceived" conflict with their duties and responsibilities with the Agency.

"Perceived" conflicts of interest are situations where there is the appearance that a member, director, officer or employee can personally benefit from actions or decisions made in their official capacity, or where a member, director, officer or employee may be influenced to act in a manner that does not represent the best interests of the Agency. The perception of a conflict may occur if circumstances would suggest to a reasonable person that a member, director, officer or employee may have a conflict.

"Actual" conflicts of interest are situations where a member, director, officer or employee can personally benefit from actions or decisions made in their official capacity, or where a member, director, officer or employee is influenced to act in a manner that does not represent the best interests of the Agency.

Except for Prohibited Conflicts of Interest as set forth in Article V herein, Perceived and Actual conflicts of interest should be treated in the same manner for purposes of disclosure under Article IV herein.
ARTICLE II
Standards of Conduct

1. No member, director, officer or employee of the Agency should accept other employment which will impair their independence of judgment in the exercise of their official duties.

2. No member, director, officer or employee of the Agency should accept employment or engage in any business or professional activity which will require them to disclose confidential information which they have gained by reason of their official position or authority.

3. No member, director, officer or employee of the Agency should disclose confidential information acquired by them in the course of their official duties nor use such information to further their personal interests.

4. No member, director, officer or employee of the Agency should use or attempt to use their official position to secure unwarranted privileges or exemptions for themselves or others; provided, however, nothing herein shall prohibit any business or enterprise in which such member, director, officer or employee may have a financial interest from obtaining financial assistance provided that the Prohibited Conflicts of Interest provisions of Article V herein are not violated.

5. No member, director, officer or employee of the Agency should engage in any transaction as representative or agent of the Agency with any business entity in which they have a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of their official duties; provided, however, nothing herein shall prohibit any business or enterprise in which such member, director, officer or employee may have a financial interest from obtaining financial assistance provided that the Prohibited Conflicts of Interest provisions of Article V herein are not violated.

6. No member, director, officer or employee of the Agency should by their conduct give reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position or influence of any party or person.

7. Each member, director, officer and employee of the Agency should abstain from making personal investments in enterprises which they have reason to believe may be directly involved in decisions to be made by them or which will otherwise create substantial conflict between their duty in the public interest and their private interest; provided, however, nothing herein shall prohibit any business or enterprise in which such member, director, officer or employee may have a financial interest from obtaining financial assistance provided that the Prohibited Conflicts of Interest provisions of Article V herein are not violated.
8. Each member, director, officer or employee of the Agency should endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of his or her trust.

Notwithstanding anything contained in this Article II to the contrary, nothing shall prohibit any member, director, officer or employee of the Agency from acquiring property adjacent to or otherwise proximate to the lands in which the Agency has an interest, provided that such acquisition is not based upon the use of confidential information obtained by such member, director, officer or employee of the Agency in his capacity with the Agency as determined by such member, director, officer or employee after consultation with the Ethics Officer and counsel to the Agency.

ARTICLE III
Gifts

Pursuant to and in accordance with Section 805-a of the General Municipal Law, no member, director, officer or employee of the Agency shall directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more under circumstances in which it could reasonably be inferred that the gift was intended to influence such individual, or could reasonably be expected to influence such individual, in the performance of the individual’s official duties or was intended as a reward for any official action on the individual’s part. Inferences that gifts having a value of less than seventy-five dollars can influence or reward members, directors, officers or employees of the Agency is deemed to be unreasonable.

ARTICLE IV
Procedures for Disclosing a Conflict of Interest

Except for Prohibited Conflicts of Interest as set forth in Article V below, all members, directors, officers or employees of the Agency shall adhere to the following procedures:

1. All members, directors, officers and employees shall examine their specific facts and circumstances giving rise to the question of a conflict in order to determine:

   (i) whether such member, director, officer or employee can personally benefit from the actions or decisions made in their official capacity (i.e. Actual Conflict); or

   (ii) whether a member, director, officer or employee is influenced to act in a manner that does not represent the best interests of the Agency (i.e. Actual Conflict); or

   (iii) whether a reasonable person would conclude that such member, director, officer or employee may have a conflict (i.e. Perceived Conflict). In determining whether a reasonable person would conclude that there is a conflict, such member, director, officer or employee must assess the
materiality within the context of the specific facts and circumstances. Provided that the event giving rise to the question of a conflict is material within the context of the specific facts and circumstances, then it would be reasonable for a person to conclude that there may be a conflict.

2. All Actual and Perceived conflicts of interest shall be disclosed in writing to the Ethics Officer as soon as practicable after learning of the Actual or Perceived conflict of interest. The written disclosure must (i) identify the matter before the Agency, (ii) identify the Standard of Conduct in question and (iii) contain sufficient facts and circumstances in order to accurately convey the extent of the member’s, director’s, officer’s or employee’s interest in such matter. In addition, in the event a member of the board of directors of the Agency has a conflict, he or she shall verbally disclose the conflict during a public session of a board meeting at which the matter creating the conflict appears on the agenda. Such verbal disclosure shall be recorded in the minutes of the meeting and be made part of the public record.

3. The member, director, officer or employee with the conflict of interest shall recuse themselves and refrain from participating in all discussions or decisions on the matter creating the conflict. In addition, in the event a member of the board of directors of the Agency has a conflict, he or she shall, in addition to the foregoing, abstain from voting on such matter creating the conflict.

4. The member, director, officer or employee with the conflict of interest shall refrain from directly or indirectly attempting to influence the discussions, decisions, deliberations or vote on the matter giving rise to such conflict.

**ARTICLE V**

**Prohibited Conflicts**

General Municipal Law (“GML”) Article 18 regulates financial conflicts of interest of members, directors, officers and employees of the Agency. Therefore, notwithstanding any other provision contained in this Policy, financial conflicts of interest shall be governed solely by this Article V.

**Prohibition:** No member, director, officer or employee shall have a direct or indirect financial interest in a contract with the Agency where such member, director, officer or employee has some form of control over the contract (“Prohibited Interest”).

**No Cure:** Disclosure, recusal, and abstention will not cure a Prohibited Interest. In order to avoid a violation of a “Prohibited Interest” the contract may not be acted upon or the member, director, officer or employee would have to resign.

**Violations:** Any member, director, officer or employee who is determined to have “willfully and knowingly” violated the Prohibited Interest provisions of Article 18 of the GML may be found guilty of a misdemeanor. In addition, the contract, if willfully entered into, may be determined “null, void and wholly unenforceable”
Exceptions: Article 18 of the GML provides fifteen exceptions to the Prohibited Interest provision. One of the more commonly claimed exceptions comes into play when the member, director, officer or employees ("officials") interest in the contract is prohibited solely by reason of the official’s employment with the entity that has the contract with the Agency. This exception applies provided: (a) the official’s compensation from the private employer is not contingent upon the contract between the employer and the Agency and (b) the official’s duties for the private employer do not directly involve the procurement, preparation or performance of any part of the contract. [Note: This exception does not cover an Agency official who is a director, partner, member, or shareholder of the private employer]. The second most commonly claimed exception is where the official has an interest in a contract that was entered into with the Agency prior to the time the official was elected or appointed as such member, director, officer or employee of the Agency. Provided, however, this exception does not authorize the renewal of any such contract.

Disclosure of Exception: Disclosure of Interest that falls within one of the Exceptions: The official is required to publicly disclose the nature and extent of his or her prospective, existing or subsequently acquired interest in any actual or proposed contract. The disclosure must be made in writing and must be placed, in its entirety, in the official record. The official must recuse him or herself from participating in any discussion or action on the contract.

Notification of Potential Conflict due to a Financial Interest: Every member, director, officer or employee shall immediately notify the Agency’s Ethics Officer of any potential conflict of interest due to a direct or indirect financial interest in any matter coming before the Agency where such member, director, officer or employee has the power or duty to negotiate, prepare, authorize or approve the matter before the Agency. The Ethics Officer shall review the potential financial conflict of interest pursuant to the provisions of Article 18 of the GML in consultation with Agency counsel.

ARTICLE VI
Penalties

Any employee that fails to comply with this Policy may be subject to termination. In addition, any member, director, officer or employee that fails to comply with this Policy may be penalized in a manner provided for in law.

ARTICLE VII
Ethics Officer

The Agency’s Board shall designate an officer, member, director or employee of the Agency to serve as the Ethics Officer of the Agency. In the event of a vacancy, the Agency Board Chair shall serve as the Ethics Officer until such time as the Agency Board appoints a successor.

The Ethics Officer shall report to the Board. The Ethics Officer shall have the powers and duties set forth below, and such other powers and duties as may be prescribed by the Board:
1. Advise in confidence each member, director, officer or employee of the Agency who seeks guidance regarding ethical behavior and conflicts of interest.

2. Review matters concerning ethics and conflicts of interest and advise the Agency accordingly.

3. Receive and record disclosures of conflicts of interest.

4. Receive and investigate complaints about possible violations of this Code of Ethics. Dismiss complaints found to be without substance.

5. Report to the governance committee.

6. Prepare investigative reports when deemed appropriate of his or her findings to be submitted for action by the President/CEO or the Board.

7. Seek consultation and guidance from counsel to the Agency, the Agency’s governance committee, or any appropriate New York State agency.

ARTICLE VIII
Whistleblower Policy

In accordance with Title 12 of Article 9 of the Public Authorities Law, the Agency adopted a Whistleblower Policy to afford certain protections to individuals who, in good faith, report violations of the Agency’s Code of Ethics or other instances of potential wrongdoing within the Agency. This Policy provides Agency members, directors, officers and employees with a confidential means to report credible allegations of misconduct, wrongdoing, or unethical behavior and to protect those individuals, when acting in good faith, from personal or professional retaliation. This Policy is provided and is accessible to all members, directors, officers and employees of the Agency and is reviewed annually by the Agency’s Governance Committee.

ARTICLE IX
Implementation; Annual Review

This Code of Ethics shall be provided to all members, directors, officers and employees of the Agency upon commencement of employment or appointment and shall be reviewed annually by the Agency’s Governance Committee.

Amended and Adopted this 21st day of March, 2018, by the respective Boards of each corporation referenced above.
Erie County Industrial Development Agency ("ECIDA"), Buffalo and Erie County Regional Development Corporation ("RDC"), and Buffalo and Erie County Industrial Land Development Corporation ("ILDC")

WHISTLEBLOWER POLICY AND PROCEDURES

I. Introduction

a. Applicability: This Whistleblower Policy ("Policy") shall apply to the Erie County Industrial Development Agency ("ECIDA") and its affiliated corporations: Buffalo and Erie County Regional Development Corporation ("RDC"), Buffalo and Erie County Industrial Land Development Corporation ("ILDC"), and any other affiliated entities that may be established by the ECIDA (hereinafter collectively referred to as the "Agency") upon approval by the respective Board of Directors or Members of the Agency.

b. Scope: In accordance with Title 12 of Article 9 of the Public Authorities Law, the Agency is required to adopt a policy to afford certain protections to individuals who, in good faith, report violations of the Agency’s Code of Ethics or other instances of potential wrongdoing within the Agency.

c. Purpose: This Policy provides Agency members, directors, committee members, officers, and employees with a confidential means to report credible allegations of misconduct, wrongdoing, or unethical behavior and to protect those individuals, when acting in good faith, from personal or professional retaliation.

II. Definitions

a. "Good Faith": Information concerning potential wrongdoing is disclosed in "good faith" when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.

b. "Agency Employee": All members, directors, committee members, officers, and staff employed at the Agency whether employed full-time or part-time, employed pursuant to a contract, employed temporarily, or employees who are on probation.

c. "Whistleblower": Any Agency employee (as defined herein) who in good faith discloses information concerning wrongdoing by another Agency employee, or concerning the business of the Agency itself.

d. "Wrongdoing": Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by an Agency employee (as defined herein) that relates to the Agency.
e. “Personnel action”: Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

III: Reporting Wrongdoing

All Agency employees who discover or have knowledge of potential wrongdoing concerning board members, officers, or employees of the Agency; or a person having business dealings with the Agency; or concerning the Agency itself, shall report such activity in accordance with the following procedures:

a. The Agency Employee shall disclose any information concerning wrongdoing either orally or in a written report to his or her supervisor, or to the Agency’s ethics officer, general counsel, or human resources representative.

b. All Agency Employees who discover or have knowledge of wrongdoing shall report such wrongdoing in a prompt and timely manner.

c. The identity of the whistleblower and the substance of his or her allegations will be kept confidential to the best extent possible.

d. The individual to whom the potential wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner, which may include referring such information to the Authorities Budget Office or an appropriate law enforcement agency where applicable.

e. Should an Agency Employee believe in good faith that disclosing information within the Agency pursuant to Section 3(a) above would likely subject him or her to adverse personnel action or be wholly ineffective, the Agency Employee may instead disclose the information to the Authorities Budget Office or to an appropriate law enforcement agency, if applicable. The Authorities Budget Office’s toll free number (1-800-560-1770) should be used in such circumstances.

IV: No Retaliation or Interference

No Agency Employee shall retaliate against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion, or abuse of authority; and, no Agency Employee shall interfere with the right of any other Agency employee by any improper means aimed at deterring disclosure of potential wrongdoing. Any attempts at retaliation or interference are strictly prohibited and:

a. No Agency Employee who, in good faith, discloses potential violations of the Agency’s Code of Ethics or other instances of potential wrongdoing shall suffer harassment, retaliation or adverse personnel action.
b. All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by the Agency.

c. Any Agency Employee who retaliates against or attempts to interfere with any individual for having in good faith disclosed potential violations of the Agency’s Code of Ethics or other instances of potential wrongdoing is subject to disciplinary action, which may include termination of employment.

d. Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

V: Other Legal Rights Not Impaired

The Whistleblower Policy and Procedures set forth herein are not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action.

a. Specifically, these Whistleblower Policy and Procedures are not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the “False Claims Act”), and Executive Law § 55(1).

b. With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any employee who wishes to preserve such rights shall, prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).

VI. Implementation

This Whistleblower Policy shall be provided to all directors, officers, and employees of the Agency and shall be reviewed annually by the Agency’s Governance Committee.

Amended and Adopted this 21st day of March 2018 by the respective Boards of each corporation referenced above.
Erie County Industrial Development Agency ("ECIDA"), Buffalo and Erie County Regional Development Corporation ("RDC"), and Buffalo and Erie County Industrial Land Development Corporation ("ILDC")

GOVERNANCE COMMITTEE CHARTER

In addition to the Erie County Industrial Development Agency ("ECIDA"), this Charter shall serve as the charter for the Governance Committees of the Buffalo and Erie County Regional Development Corporation ("RDC"), and Buffalo and Erie County Industrial Land Development Corporation ("ILDC"), (hereinafter collectively referred to as the "Agency") upon approval by the respective Boards of each corporation.

ARTICLE I
Establishment of Governance Committee; Core Responsibilities

The Board of Directors of the Agency authorized the establishment of the Governance Committee by amendment to the Agency’s bylaws ("Bylaws"). The Bylaws sets forth the composition and basic responsibilities of the Governance Committee.

The core responsibilities of the Governance Committee, as mandated under Section 2824(7) of the New York Public Authorities Law, are set forth in the Bylaws and include: (i) keeping the Board informed of current best governance practices; (ii) reviewing corporate governance trends; (iii) updating the Agency’s corporate governance principles; and (iv) advising those responsible for appointing members to the Board on the skills and experiences necessary required of potential Board members.

ARTICLE II
Composition of the Governance Committee

The members of the Governance Committee shall be appointed in accordance with the Bylaws. Individuals appointed to the Governance Committee should be knowledgeable, or have expressed a willingness to become knowledgeable, in matters pertaining to governance. The Board shall designate one member of the Governance Committee to serve as chair of the Governance Committee. Each member of the Governance Committee shall serve for a term of one (1) year and until his or her successor shall be appointed and qualified.

At least three members of the Governance Committee must be an “independent member” within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as amended from time to time. Governance Committee members shall
be prohibited from being an employee of the Agency or an immediate family member of an employee of the Agency. Members of the Governance Committee shall not engage in any private business transactions with the Agency or receive compensation from any private entity that has material business relationships with the Agency, or be an immediate family member of an individual that engages in private business transactions with the Agency or receives compensation from an entity that has material business relationships with the Agency. In addition, Governance Committee members who are members of the Agency shall comply with the conflict of interest provisions applicable to public officers under Article 18 of the New York General Municipal Law.

ARTICLE III
Committee Meetings

The Governance Committee will meet a minimum of once (1) each calendar year. Additional meetings may be necessary or appropriate to adequately fulfill the obligations and duties outlined in this Charter. All committee members are expected to attend each meeting in person or via videoconference.

Meeting notices and agendas will be prepared for each meeting and provided to Governance Committee members by electronic or regular mail at least five (5) days in advance of the scheduled meeting. A quorum of the Governance Committee shall consist of a majority of the members then serving on the Governance Committee. The affirmative vote of a majority of the members then serving on the Governance Committee shall constitute an act of the Governance Committee. Minutes of all meetings shall be recorded by the Secretary or any Assistant Secretary of the Agency. All meetings shall comply with the requirements of the Open Meetings Law.

ARTICLE IV
Committee Duties and Responsibilities

To accomplish the objectives of good governance and accountability, the Governance Committee has the following responsibilities as set forth below:

A. The Board of Directors has delegated to the Governance Committee the responsibility to review, develop, draft, revise or oversee policies and practices for which the Governance Committee has specific expertise, as follows:

   (i) Develop the Agency’s governance practices, which should address transparency, independence, accountability, fiduciary responsibilities and management oversight;

   (ii) Develop a statement of the competencies and personal attributes required of Board members to assist those authorized to appoint members to the Board in identifying
qualified individuals (it being acknowledged that membership in the Agency is determined pursuant to Section 891-a of the General Municipal Law);

(iii) Develop and recommend to the Board any revisions to the number and/or structure of Board committees;

(iv) Develop and provide recommendations to the Board regarding Board member education, including new member orientation and regularly scheduled Board member training to be obtained from state-approved trainers as required under Section 2824(2) of the New York Public Authorities Law;

(v) Examine ethical and conflicts of interest; and

(vi) Perform full Board self-evaluations.

B. The Governance Committee shall develop, review and recommend to the Board the adoption and/or revisions to the following:

(i) the Agency’s Code of Ethics;

(ii) written policies regarding conflicts of interest;

(iii) written policies regarding the protection of whistleblowers from retaliation;

(iv) equal opportunity and affirmative action policies;

(v) written policies regarding procurement of goods and services, including policies relating to the disclosure of persons who attempt to influence the Agency’s procurement process;

(vi) written policies regarding the disposition of real and personal property and the acquisition of property;

(vii) committee charters, including this Charter; and

(vii) any other policies or documents relating to the governance of the Agency, including rules and procedures for conducting the business of the Agency’s Board, including the Agency’s Bylaws. The Governance Committee will oversee the implementation and effectiveness of the Bylaws and other governance documents and recommend modifications to the Board as necessary or appropriate.
ARTICLE V
Committee Reports

The Governance Committee shall:

A. report its actions and recommendations to the Board at each regular meeting of the Board following a meeting of the Governance Committee and when otherwise requested by the Board;

B. report to the Board, at least annually, regarding any proposed changes to this Charter; and

C. provide a self-evaluation of the Governance Committee’s functions to the Board on an annual basis.

ARTICLE VI
Amendments

This Charter may be amended upon affirmative vote of a majority of the Board of the Agency.

Re-adopted this 21st day of March, 2018 by the respective Boards of each corporation referenced above.
Property Disposition Guidelines
of the
Erie County Industrial Development Agency ("ECIDA"),
Buffalo and Erie County Regional Development Corporation
("RDC"), Buffalo and Erie County Industrial Land
Development Corporation ("ILDC")

The Erie County Industrial Development Agency ("ECIDA") and each ECIDA
Affiliate (as defined herein) (hereinafter collectively referred to as the "Agency") are
required by Section 2896 of the Public Authorities Law to adopt by resolution
comprehensive guidelines regarding the use, awarding, monitoring and reporting of
contracts for the disposal of Property (as defined herein). The following guidelines
("Guidelines") are adopted upon approval by the respective Boards or Members of each
corporation pursuant to such requirement and are applicable with respect to the use,
awarding, monitoring and reporting of all Property Disposition Contracts which are
entered into by the Agency.

ARTICLE I
DEFINITIONS

1. "Contracting Officer" shall mean an officer or employee of ECIDA
appointed by resolution of the Board of Directors or Members of the ECIDA and each
ECIDA Affiliate to be responsible for the disposition of Property of ECIDA and each
ECIDA Affiliate.

2. "Dispose" or "disposal" or "disposition" shall mean the transfer of title or
any other beneficial interest in Property from ECIDA or an ECIDA Affiliate to any
unrelated third party.

3. "ECIDA Affiliate" shall mean the following organizations:

   (i) Buffalo and Erie County Regional Development Corporation;

   (ii) Buffalo and Erie County Industrial Land Development
        Corporation;

   (iii) such other affiliated entities of ECIDA as may hereafter be
        established by ECIDA and which are determined to be subject to
        the requirements of Section 2896 of the Public Authorities Law.
4. “Property” shall mean personal property in excess of Five Thousand Dollars ($5,000.00) in value, real property, or any other legally transferable interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

5. “Property Disposition Contracts” shall mean written agreements for the sale, lease, transfer or other disposition of Property from ECIDA or an ECIDA Affiliate to any unrelated third party.

6. “Real Property” shall mean real property and interests therein.

ARTICLE II
APPOINTMENT AND DUTIES OF CONTRACTING OFFICER

A. Appointment

The Contracting Officer shall be an officer or employee of ECIDA appointed by the Board of Directors or Members of the ECIDA and each ECIDA Affiliate who is responsible for the supervision and direction over the custody, control and disposition of Property and responsible for ECIDA’s compliance with and enforcement of these Guidelines. The Contracting Officer is the Treasurer/Chief Financial Officer of ECIDA.

B. Duties

The duties of the Contracting Officer shall include the following:

1. Maintaining adequate inventory controls and accountability systems for all Property under the control of ECIDA and each ECIDA Affiliate.

2. Periodically conducting an inventory of Property to determine which Property may be disposed of.

3. Preparing an annual written report of all Property of ECIDA and each ECIDA Affiliate. Each report shall include a list of all Real Property, a full description of all real and personal property disposed of during the reporting period, the price received and the name of the purchaser for all Property sold during each reporting period. Each report shall be completed and delivered to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the New York State Legislature no later than ninety (90) days following the completion of the fiscal year of ECIDA and each ECIDA Affiliate.

4. Disposing of Property as promptly as possible in accordance with these Guidelines, as directed by ECIDA or the applicable ECIDA Affiliate.
ARTICLE III
PROPERTY DISPOSITION REQUIREMENTS

A. Method of Disposition

Subject to such exceptions and/or requirements set forth in these Guidelines, in the event that ECIDA or an ECIDA Affiliate determines to dispose of any of its Property, ECIDA or the ECIDA Affiliate (as applicable) shall endeavor to dispose of such Property for at least the fair market value of the Property. The disposition of Property may be made by sale, exchange, or transfer, for cash, credit or other Property, with or without warranty, and upon such terms and conditions as are determined by ECIDA or the applicable ECIDA Affiliate to be appropriate and reasonable and consistent with these Guidelines. Provided, however, no disposition of real property shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.

B. Award and Approval of Property Disposition Contracts

1. Compliance with Guidelines; Approval Requirements. All dispositions of Property shall be conducted in accordance with these Guidelines by or under the supervision of the Contracting Officer, subject to approval of the Board of Directors or Members of the ECIDA or the applicable ECIDA Affiliate where appropriate.

2. Disposition by Public Bid.

(a) All Property Disposition Contracts may be made only after publicly advertising for bids, unless the criteria set forth in Article III(B)(3) below has been satisfied for such contracts to be made by negotiation or public auction.

(b) Whenever public advertising for bids is required, (i) the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions, as shall permit full and free competition consistent with the value and nature of the Property; (ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and (iii) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to ECIDA, the applicable ECIDA Affiliate and New York State, price and other factors considered.

(c) Any public bid for the disposition of Property may be rejected, refused, or declined by ECIDA or the applicable ECIDA Affiliate on any basis or ground allowable at law.
3. **Disposition by Negotiated Sale/Public Auction.** The following dispositions are exempt and excepted from the public bidding requirements set forth above in Article III(B)(2) and may be consummated through a negotiated sale or by public auction:

   (a) **Circumstances permitted for below FMV Disposition.** The circumstances that would permit a below FMV disposition as set forth in Article III(B)(5)(a)(i),(ii) and (iii) below regardless of whether the disposition is above, at or below FMV.

   (b) **Disposition of Certain Personal Property.** ECIDA and each ECIDA Affiliate may dispose of personal property where such personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity or other quality of similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that, if it were to be disposed of through public advertisement and bidding, would adversely affect the state or local market for such personal property.

   (c) **Disposition of Low FMV Property.** ECIDA and each ECIDA Affiliate may dispose of Property the fair market value of which does not exceed Fifteen Thousand Dollars ($15,000.00).

   (d) **Disposition Following Receipt of Unacceptable Bid Prices.** ECIDA and each ECIDA Affiliate may dispose of Property where the bid prices received by ECIDA or the applicable ECIDA Affiliate after public advertising are not commercially reasonable (either as to all or some part of the Property) as determined by ECIDA or the applicable ECIDA Affiliate in its sole discretion.

   (e) **Disposition to a Political Subdivision.** ECIDA and each ECIDA Affiliate may dispose of Property to New York State or any political subdivision of New York State.

   (f) **Disposition Authorized by Law.** ECIDA and each ECIDA Affiliate may dispose of Property where such disposition is otherwise authorized by law.

4. **Reporting Requirements Regarding Negotiated Dispositions.**

   (a) **Preparation of Written Statements.** The Contracting Officer shall prepare a written statement explaining the circumstances of each negotiated disposition of Property involving any of the following:

   (i) the negotiated disposition of personal property which has an estimated fair market value in excess of Fifteen Thousand Dollars ($15,000.00);
(ii) the negotiated disposition of Real Property that has an estimated fair market value in excess of One Hundred Thousand Dollars ($100,000.00);

(iii) the negotiated disposition of Real Property that will be disposed of by lease if the estimated annual rent over the term of the lease is in excess of $15,000; or

(iv) the negotiated disposition of Real Property or real and related personal property where the same will be disposed of by exchange, regardless of value, or any Property any part of the consideration for which is Real Property.

(b) **Submission of Written Statements.** Written statements prepared pursuant to Article III(B)(4) shall be submitted to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the State Legislature no later than ninety (90) days prior to the date on which the disposition of Property is expected to take place. The Contracting Officer shall maintain a copy of all written statements at ECIDA’s principal office.

5. **Below Fair Market Value Dispositions.**

(a) ECIDA and each ECIDA Affiliate may dispose of Property for less than the fair market value of the Property where:

(i) Transferee is a government or public entity and terms of transfer require ownership and use to remain with the government or public entity; or

(ii) Purpose of transfer is within the purpose, mission or statute of the ECIDA or each applicable ECIDA Affiliate; or

(iii) Written notification to the Governor, Speaker, and Temporary President. Such notification is subject to denial. Denial by Governor is in the form of a certification. Denial by the legislature is in the form of a resolution. Denial must be made within 60 days of receiving notification during January through June. Provided no denial, then authority may effectuate transfer. If legislature receives the notification in July through December, then legislature may take 60 days from January 1 of the following year. However, a local may obtain local approval from the chief executive and legislature of the political subdivision in lieu of the notification to the Governor, Speaker and Temporary President provided the local authority’s enabling legislation
provides for such approval and the property was obtained by the authority from the political subdivision.

(b) **Board and Public Notice.** If a below FMV transfer is proposed, the following information is required to be provided to the ECIDA board or each applicable ECIDA Affiliate’s board and to the public:

1. Description of Asset;
2. Appraisal of the FMV of the asset;
3. Description of the purpose of the transfer, the kind and amount of the benefit to the public resulting from the transfer such as jobs and wages created or preserved;
4. Value received compared to FMV;
5. Names of private parties to the transaction and value received;
6. Names of private parties that have made an offer, the value of offer, and purpose for which the asset would have been used.

(c) **Board Determination.** The board of the ECIDA or applicable ECIDA Affiliate must make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

**ARTICLE IV**

**GENERAL PROVISIONS**

**A. Annual Review and Submission of Guidelines**

These Guidelines shall be annually reviewed and approved by the Board of Directors or Members of the ECIDA and each ECIDA Affiliate. On or before the 31st day of March of each year, the Contracting Officer shall file (for itself and on behalf of each ECIDA Affiliate) a copy of the most recently reviewed and adopted Guidelines with the New York State Comptroller, and shall post the Guidelines on ECIDA’s website. Guidelines posted on ECIDA’s website shall be maintained at least until the Guidelines for the following year are posted on ECIDA’s website.

**B. Effect of Awarded Contracts**

These Guidelines are intended for the guidance of the officers, members, directors and employees of ECIDA and the ECIDA Affiliates only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof, or be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines. Without limiting the generality of the preceding sentence, any deed, bill of
sale, lease, or other instrument executed by or on behalf of ECIDA or an ECIDA Affiliate, purporting to transfer title or any other interest in Property shall be conclusive evidence of compliance with these Guidelines insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of compliance with these Guidelines prior to the closing.

C. **Exemption for Certain ECIDA Transactions**

These Guidelines shall not be applicable to any agreements or arrangements involving the provision by ECIDA of "financial assistance" as such term is defined in Section 854(14) of the New York General Municipal Law (i.e. property dispositions serving solely as a conduit for providing financial assistance).

Re-adopted this 21st day of March 2018 by the respective Boards of each corporation referenced above.
Erie County Industrial Development Agency ("ECIDA"), Buffalo and Erie County Regional Development Corporation ("RDC"), and Buffalo and Erie County Industrial Land Development Corporation ("ILDC")

Real Property Acquisition Policy

Section 2824(1)(e) of the Public Authorities Law requires local authorities to adopt a written policy governing the acquisition of real property. The following policy ("Policy") is hereby adopted upon approval by the respective Boards of Directors or Members of each corporation pursuant to such requirement and shall be applicable with respect to the acquisition of real property and any interests therein ("Real Property") by the Erie County Industrial Development Agency ("ECIDA") and its affiliates: Buffalo and Erie County Regional Development Corporation ("RDC"); Buffalo and Erie County Industrial Land Development Corporation ("ILDC"); and such other affiliates as may hereafter be established by the ECIDA and which are determined to be subject to the requirements of Section 2824(1)(e) of the Public Authorities Law (an "ECIDA Affiliate") (hereinafter collectively referred to as the "Agency").

A. Acquisition of Real Property

Real Property may be acquired by the Agency for use, development, resale, leasing or other uses designated by the Agency. The Agency may lease Real Property for use, subleasing or other uses designated by the Agency.

The purpose of each acquisition of Real Property by the Agency shall be to further one or more purposes of the Agency as authorized under the Agency’s enabling legislation, certificate of incorporation, by-laws or a resolution adopted by the Board of Directors or Members of the Agency, or for a purpose otherwise permitted under applicable state law.

Prior to each acquisition of Real Property, the Agency will conduct such due diligence as it deems appropriate in accordance with the particular circumstances of the proposed acquisition. Such due diligence may include, but is not limited to, Real Property appraisals and review and investigation of environmental, structural, title, pricing and other applicable matters.

B. Approval of Real Property Acquisitions

All acquisitions of Real Property shall be conducted in accordance with this Policy and applicable law. Proposed acquisitions of Real Property shall be presented to the Board of Directors of the Agency for approval or other appropriate action.
C. **Exemption for Certain ECIDA Transactions**

This Policy shall not be applicable to any agreements or arrangements involving the provision by ECIDA of "financial assistance" as such term is defined in Section 854(14) of the New York General Municipal Law.

D. **Amendment of Policy**

This Policy may be amended or modified at any time by the Board of Directors of the Agency.

**Effective Date**

Re-adopted this 21st day of March 2018 by the respective Boards of each corporation referenced above.
Erie County Industrial Development Agency ("ECIDA"),
Buffalo and Erie County Regional Development Corporation
("RDC"), and Buffalo and Erie County Industrial Land
Development Corporation ("ILDC")

DEFENSE AND INDEMNIFICATION POLICY

This Defense and Indemnification Policy is adopted in accordance with Section 2824 of
the Public Authorities Law and applies to all members, directors, committee members, officers
and employees of the Erie County Industrial Development Agency (ECIDA) and its affiliates:
Buffalo and Erie County Regional Development Corporation (RDC), Buffalo and Erie County
Industrial Land Development Corporation (ILDC), and any other affiliated entities that may
hereafter be established by ECIDA (hereinafter collectively referred to as the "Agency") upon
approval by the respective Boards of each corporation.

The Agency shall indemnify all members and directors of the Board of the Agency and
each committee member, officer and employees thereof, in the performance of their duties, and
to the extent authorized by the Board, each other person authorized to act for the Agency or on
its behalf, in accordance with the By-Laws or to the extent permitted by law.

Amended and Adopted this 21st day of March, 2018 by the respective Boards of each
corporation referenced above.
Erie County Industrial Development Agency ("ECIDA"), Buffalo and Erie County Regional Development Corporation ("RDC"), and Buffalo and Erie County Industrial Land Development Corporation ("ILDC")

BOARD MEMBER COMPENSATION, REIMBURSEMENT AND ATTENDANCE POLICY

This Compensation, Reimbursement and Attendance Policy is adopted in accordance with Section 2824 of the Public Authorities Law and applies to all directors of the Erie County Industrial Development Agency (ECIDA) and its affiliates: Buffalo and Erie County Regional Development Corporation (RDC), Buffalo and Erie County Industrial Land Development Corporation (ILDC), and any other affiliated entities that may hereafter be established by ECIDA (hereinafter collectively referred to as the "Agency") upon approval by the respective Boards of each corporation.

Pursuant to and in accordance with Sections 856 and 891-a of the General Municipal Law of the State of New York and this Policy, the members of the board of the Erie County Industrial Development Agency and its affiliates (the "Board") shall serve without salary but may be reimbursed for reasonable expenses incurred in the performance of Agency duties in accordance with the Agency’s Travel, Conferences, Meals and Entertainment Policy. Reimbursements for any expenses shall be reviewed and approved by the Board Chair. Provided, however, if the Board Chair is seeking the reimbursement allowed herein then such reimbursement shall be subject to the approval by the Chair of the Audit Committee.

The members of the Board shall be available as required to perform the operations of the Agency and as set forth within the By-Laws of the Agency, as may be amended, restated or revised by the Board from time to time. Said members of the Agency shall put forth their best efforts to perform their respective duties as outlined in the By-Laws of the Agency and any other directives of the Board relating to same.

Re-adopted this 21st day of March 2018 by the respective Boards of each corporation referenced above.
ECIDA
EMPLOYEE COMPENSATION PROGRAM

Introduction

The ECIDA hereby adopts a written protocol for determining employee compensation including eligibility criteria for bonus compensation. The compensation program includes employee base compensation, COLA, bonus, and related fringe benefit costs (collectively, the "Employee Compensation Program").

Employee Compensation Program Procedures

A preliminary budget for employee compensation, including base compensation and any recommended salary adjustments, together with fringe benefits, COLA and bonus compensation shall be established annually by the Management Team or CEO, as applicable. Base compensation and salary adjustments shall be determined after taking into consideration the existing compensation ranges and fringe benefit programs and appropriate economic, geographic, and competitive salary ranges and fringe benefits for comparable positions in the region and with respect to New York State IDA’s in particular. The Management Team or CEO, as applicable, will also consider the experience of the individual, the ECIDA’s budget constraints, and other appropriate discretionary factors in establishing the individual base compensation will be considered.

The preliminary budget shall then be submitted to the Audit Committee and Board of Directors for approval in advance of each calendar year. This procedure is consistent with past practice and will continue to be followed.

Performance Evaluation for Bonus Award

The ECIDA has adopted Performance Evaluation procedures for each position with certain benchmarks for performance. Eligibility for bonus compensation will be determined on the basis of meeting a minimum threshold rating set forth below based on the specific Performance Evaluation Benchmarks designed for the particular position or employee’s measurable objectives for strategic goals. The Performance Evaluation Benchmarks for each employee’s position will be established in advance of each year.

Performance Evaluation Ratings:

☐ If an employee of the ECIDA achieves an overall rating in the range of "Unacceptable" or "Needs Improvement" then the employee will not be eligible for any bonus compensation.
If an employee of the ECIDA achieves an overall rating of "Fully Satisfactory" then the employee will be eligible for bonus compensation up to 3% of that employee's base salary.

If an employee of the ECIDA achieves an overall rating of "Excellent" then the employee will be eligible for bonus compensation up to 6% of that employee's base salary.

If an employee of the ECIDA achieves an overall rating of "Outstanding" then the employee will be eligible for bonus compensation up to 9% of that employee's base salary.

**Bonus Award Determination**

An award of bonus compensation is subject to an overall determination by the Management Team or CEO, as applicable, of determining that a minimum eligibility rating has been achieved and, in consultation with the Chair of the ECIDA Board of Directors, determining whether the overall profitability and economics of the ECIDA are at appropriate levels for expending the additional compensation earned, together with the ECIDA achieving its overall performance goals.

As an inducement to continued and faithful service to the ECIDA, only an employee who has been employed for the entire Plan Year will be eligible for the bonus award earned. At the discretion of the Management Team or CEO, as applicable, an employee who has not completed a full Plan Year may be eligible for a pro rated bonus based on the employee's hire date. An employee must be an active employee as of the date of the award's approval and distribution to receive the bonus.

**Effective Date**

The effective date for the Employee Compensation Program is the date of its adoption by the ECIDA Board of Directors. The first Plan year will be based on the period June 1, 2007 — December 31, 2007, and each succeeding calendar year thereafter (the "Plan Year").

**Amendment**

This Plan may be modified or terminated as the Board of Directors may determine.

Re-adopted this 21st day of March 2018 by the ECIDA Board of Directors.
Erie County Industrial Development Agency ("ECIDA"),
Buffalo and Erie County Regional Development Corporation
("RDC"), Buffalo and Erie County Industrial Land
Development Corporation ("ILDC"

Travel, Conferences, Meals and Entertainment Policy

Objective:
The purpose of this Travel, Conferences, Meals and Entertainment Policy (Policy) is
to outline the policies and procedures the Erie County Industrial Development Agency
and its affiliates will follow with respect to these and other related expenditures in
accordance with Section 2824 of the Public Authorities Accountability Act of 2005.

Applicability:
This policy shall apply to the Erie County Industrial Development Agency ("ECIDA") and
its affiliated corporations: Buffalo and Erie County Regional Development Corporation
("RDC"), Buffalo and Erie County Industrial Land Development Corporation ("ILDC"),
and any other affiliated entities that may be established by the ECIDA (hereinafter
collectively referred to as the "Agency") upon approval by the respective Boards of
Directors and Members of the Agency. This policy shall apply to every director, member,
officer and employee of the Agency.

General Guidelines:
It is the Agency’s general policy to pay reasonable and necessary travel,
conferences, meals and entertainment expenses incurred as a result of official
business subject to the presentation of appropriate documentation.

Any exceptions or potential exceptions to this Policy must be submitted to the Chief
Executive Officer ("CEO"; or in the case of the CEO to the Board Chair\(^1\)) for approval.

Section 1: Travel

1.1 Approval of Travel:
Travel involving overnight accommodation or travel outside of Western New York and
Southern Ontario requires the approval of the CEO (or the Board Chair in the case of
the CEO).

\(^1\) If the Board Chair benefited from the expenditure then the Audit Committee Chair will approve the
exception. If both the Board Chair and Audit Committee Chair benefited from the expenditure then the full
Board of the Agency must approve the exception.
1.2 Personal Travel:
Personal Travel is not reimbursable. This exclusion applies to personal travel which interrupts official travel, or precedes or follows a business trip.

Personal expenses are not reimbursable even when incurred while on an Agency trip. Examples of such excluded expenses are pet care, house, or child-care expenses and purchase or repair of personal luggage.

1.3 Reimbursable Travel Expenses:
Where practical, employees should perform appropriate due diligence to obtain the lowest reasonable costs for travel expenses.

Transportation expenses shall be reimbursed based on an economical mode of transportation and the most commonly traveled route consistent with the authorized purpose of the trip.

Transportation tickets should be procured in advance in order to obtain any discounts offered by the carrier. Every reasonable effort should be made to cancel reservations on a timely basis to avoid no-show or late cancellation charges.

A. Automobile Travel

i) Personal Vehicle
Travelers may use their personal vehicle for business purposes if it is less expensive than renting a car, taking a taxi, or using alternative transportation, or if it saves time.

In most circumstances, mileage shall be computed as the distance traveled to the business destination. Mileage will be reimbursed at the prevailing IRS mileage rate reimbursement limits which are intended to cover the cost of fuel, depreciation, insurance, maintenance and other similar operating costs. Expenses related to the mechanical failure or accidents to personal cars are not reimbursable.

When utilizing a personal vehicle for business, travelers must maintain liability insurance on the vehicle in accordance with New York State requirements. The Agency may periodically request proof of insurance from such travelers.

ii) Rental Cars
A vehicle may be rented when renting would be more advantageous to the Agency than other means of commercial transportation, such as using a taxi. Advance reservations should be made whenever possible and a compact or economy model requested unless the itinerary, number of travelers or baggage support the choice of a larger vehicle. The traveler is responsible for obtaining the best available rate commensurate with the requirements of the trip. When the traveler uses a rental car also for a personal side trip, he or she is expected to pay the appropriate portion of both the per-diem and the mileage expense.

The Agency's insurance company currently provides liability and physical damage coverage if a vehicle is rented in the Agency's name in the U.S. or Canada. Therefore, if
similar coverage is offered by the rental company, it should be declined in these circumstances.

iii) Miscellaneous Automobile-related Expenses
Charges for parking, ferries, bridges, tunnels, or toll roads while an individual is traveling on Agency business will be reimbursed.

B. Air Travel
Whenever practicable, travelers are expected to use tourist, economy, coach or "standard" accommodations for air travel. The Agency discourages more than three employees traveling on the same flight.

Travelers may retain Agency business frequent flyer mileage credits for personal use. However, air carrier selection cannot be biased by the traveler's frequent flyer affiliation. The lowest cost air travel should take precedence after considering departure/arrival times and number of stops.

C. Surface Transportation Used in Lieu of Air Travel
If advance approval has been obtained, a traveler may use surface transportation for personal reasons even though air travel is the appropriate mode of transportation. The cost of meals and lodging, parking, mileage, tolls, taxis, and ferries incurred while in transit by surface transportation may be reimbursed. Such costs shall not exceed the cost of airfare, based on the cost of regular coach fare available for the location of travel from a standard commercial air carrier plus transportation costs to and from the airport.

D. Other Forms of Transportation
Rail, shuttle, subway or bus transportation may be used if it is convenient and less expensive than alternative transportation or it saves time. If a traveler's destination is served by a regularly scheduled airline, the use of rail or bus transportation shall be reimbursed in accordance with the procedures specified under Surface Transportation in Lieu of Air Travel.

E. Food and Lodging
Lodging, meals, gratuities and related miscellaneous expenses while an individual is on travel status for the Agency will be reimbursed in their actual, reasonable amounts when properly documented. Gratuities should generally not exceed 20% of the total bill and are reimbursable if a restaurant receipt is submitted. Generally, hotel housekeeping gratuities are reimbursable up to $5 per day. Accommodations are expected to be comfortable and appropriate to the particular purpose of the trip-not luxurious or extravagant. Wherever possible, the Agency's New York State sales tax exemption should be claimed. Tax exemption letters are available from the Finance Department.
F. Miscellaneous Travel Expenses
Examples of miscellaneous travel expenses that are reimbursable are the following:

- Reasonable tips for baggage handling, etc.
- Business telephone or internet calls and occasional, reasonable personal calls.
- Highway and bridge tolls.
- Necessary parking fees.
- Small supplies on an emergency basis
- Fees for visas, passports, and inoculations are allowable when they are a specific and necessary condition of fulfilling a work assignment.
- Cab gratuities, generally not exceeding 20% of the total cost of the cab ride.

G. Travel Expenses Not Reimbursed
Expenses that are not reimbursable include:

- Lost or stolen tickets, cash, or personal property.
- Fines.
- Accident insurance premiums (the Agency provides workers compensation and accidental death and disability insurance to employees).
- Child, pet or house-sitting expenses.
- Penalties or fees for cancellation or change of discounted tickets when the cancellation or change came about from personal rather than Agency choice.
- In-room movie or video game rentals.
- Hotel mini-bar charges.
- Dry cleaning (unless the Agency requests that the traveler extends their regularly scheduled trip or when the traveler is away from home for more than six days).
- All costs pertaining to spouses, partners or other non-Agency personnel accompanying the traveler
- Tobacco products

The above listings are not all-inclusive and items not listed will be reviewed on a case-by-case basis.

Section 2: Conferences and Seminars
Reimbursement of conference and seminar fees and related hotel and meal expenses will be limited to those reasonable, necessary, approved expenses which are reported in an Expense Report with supporting receipts or documentation. The Agency will only reimburse reasonable meal and beverage expenses of guests when the purpose of the meeting is to discuss Agency business. If this is the case, the Agency requires that the traveler provide a listing of the guests whose costs are being reimbursed, their organization and title and the business purpose of the meeting.
If a conference registration fee includes an extra charge for social activities, such as site-seeing tours, golf outings, etc., these charges are considered personal expenses and will not be reimbursed.

Section 3: Dues of Professional or Technical Organizations

Dues for approved memberships in professional or technical organizations are reimbursable when they are related to the employee’s job responsibilities.

Section 4: Meals & Entertainment

There are occasions when the Agency may provide meals and light refreshments to Board or committee members, officers, employees, guests or visitors to support the mission of the Agency. As with other Agency expenditures, authorized officials must exercise prudent business judgment in reviewing proposed expenditures for meals and light refreshments based on their reasonableness and benefit to the Agency and its mission of promoting general economic development in Erie County. In addition, such expenditures should be cost effective and in accordance with the best use of Agency administered funds.

Meals and entertainment costs of a spouse or partner will only be reimbursed if their presence serves a business purpose (such as if he or she has a significant role in the proceedings or makes an important contribution to the success of the event). Official functions to which spouses or partners are invited as a matter of protocol or tradition may be considered as bona fide business-related activities if their inclusion serves a legitimate business purpose.

4.1 Employee morale-building activities Exception

The cost of meals, light refreshments and entertainment for official employee morale-building activities that serve an Agency business purpose may be reimbursed as an exception to this Policy. Examples of such occasions include a gathering to honor a departing employee who is retiring or who is separating from Agency employment, employee recognition receptions, annual staff picnics, and holiday gatherings. Employee gifts and/or celebrations for milestone anniversaries (ex. 10, 15, 20, 25, etc.) are also allowed. Celebrations and/or cakes for employee birthdays or for Agency interns are not reimbursable.

4.2 Entertainment Expenses Not Reimbursed

Expenses that are not reimbursable include:

- Entertainment expenses that are lavish or extravagant under the circumstances;
- Entertainment expenses for birthdays, weddings, anniversaries, or farewell gatherings (excluding the morale-building expenses referenced in section 4.1 above).
• Memberships/dues for private clubs, unless such membership is determined by the Board and/or Members to be appropriate for the conduct of Agency business in accordance with its corporate purposes.

• Adult entertainment

Section 5: Advances

Cash advances are not generally provided because individuals who travel regularly on Agency business are encouraged to use their personal credit cards to charge their travel expenses.

If hardship would result or for travelers without a personal credit card, cash advances can be obtained from the Finance department. To obtain an advance, the traveler must complete a "Request for Cash Advance" form which must be approved by both the CFO and CEO (or CFO and the Chair of the Audit Committee in the case of the CEO). Any excess of cash advances over allowable out-of-pocket costs must be promptly refunded to the Agency.

Section 6: Reimbursement Approval

Reimbursement may be requested as soon as the individual has made the expenditure, completed their Expense Report and had it approved. Expense Reports must be approved by the individual’s Division Manager or the CEO (or Chair of the Audit Committee in the case of the CEO). The individual approving the Expense Report should not have personally benefited from the expenditure. If the Agency Chairperson benefited from the expenditure then the Audit Committee Chair must approve the Expense Report. If both the Agency Chairperson and the Audit Committee Chair benefited from the expenditure then the Board or Members of the Agency must approve the Expense Report.

In approving a request to reimburse an individual for expenditures authorized under this Policy, the approving authority must determine that:

• The expenditure serves a clear and necessary business purpose of benefit to the Agency and its mission of promoting general economic development in Erie County;

• The expenditure of funds is reasonable, cost effective, and in accordance with the best use of Agency administered funds;

• Any alternatives that would have been equally effective in accomplishing the desired objectives were considered.

Individuals may not approve the reimbursement of their own expenses. In addition, an employee shall not approve the expenses of an individual to whom he or she reports either directly or indirectly.

Original, dated receipts or bills are required for hotel, car rental and airline expenditures and for any other item of expense exceeding $25. Other out-of-pocket
expenses should be listed by date, type, and purpose on the traveler’s Expense Report.

If a required receipt is lost or unavailable, a written explanation of the circumstances must accompany the reimbursement request.

6.1 Expenses Charged directly to the Agency
Certain expenses may be paid directly by the Agency through check, ACH or other direct payment methods. Examples include such items as airline tickets, rental cars, accommodation and seminar registration fees. The fact that certain allowable business expenses may be paid directly by the Agency does not relieve a traveler from complying with the substantiation requirements of this Policy (original receipts, airline tickets and other supporting documentation must be attached and details provided regarding any guest costs).

Fees for membership in credit card reward programs where the beneficiary of the rewards is the individual are not reimbursable.

Section 7: Expenses in Foreign Currency

For expenses paid in foreign cash, the exchange rate at which the traveler bought the foreign currency applies, and a receipt for the purchase of that currency should be kept and attached to the Expense Report.

Section 8: Taxability of Reimbursements

In general, where the individual supplies a detailed accounting of bona fide business expenses to the employer, the amounts reimbursed are not taxable income to the traveler. It is therefore in the traveler’s interest to carefully follow the Agency’s procedures for reporting and documenting expenses.

Section 9: Policy Exceptions

On rare occasions, exceptions to this policy may be required. Exceptions may only be made with prior written approval by the ECIDA Board Chair or Vice Chair.

Attachments

Agency Expense Report
Agency Tax exemption letter
Agency Cash Advance Form

Re-adopted by the respective Boards of Directors on the 21st day of March 2018.
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
STATEMENT OF
DUTIES AND RESPONSIBILITIES
OF THE BOARD OF DIRECTORS

ARTICLE I
Purpose

The purpose of this Statement is to set forth the standards of conduct and responsibilities of the Erie County Industrial Development Agency (the “Agency”) Board of Directors in furtherance of efficient operations so as to promote and assist economic development in the County of Erie and fulfill the purposes of the Agency as set forth in the General Municipal Law.

ARTICLE II
Role and Expectations

It is the responsibility of Board members to execute direct oversight of the Agency’s Executive Director and other senior management in the effective and ethical management of the Agency. Board members are expected to understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Agency. In executing their role, Board members shall adhere to the fiduciary duties of care and loyalty which they owe to the Agency.

A. Duty of Care. A Board member must perform his or her duties, including those duties as a member of any committee of the Board upon which he or she may serve, in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances.

B. Duty of Loyalty. Board members are bound by their duty of undivided and unqualified loyalty to the Agency, a duty which encompasses good faith efforts to insure that their personal profit is not at the expense of the Agency.

C. Board members may exercise and fulfill these duties by:

1. understanding the Agency’s role in the economic development community;

2. regularly attending and constructively participating in meetings of the Board and related committees;

3. reviewing and understanding the materials provided in advance of meetings and any other materials provided to the Board from time to time;

4. informing oneself prior to making decisions by utilizing material information reasonably available; and
5. remaining reasonably accessible to the senior management on specific issues which may not require the attention of the entire Board but where an individual Board member’s insights may be helpful.

D. **Fiduciary Duty.** In conformance with Section 2824(h) of the New York Public Authorities Law, at or about the time that each Board member is appointed to or otherwise becomes a member of the Agency, he or she must execute an Acknowledgement of Fiduciary Duties and Responsibilities in the form prescribed by the New York State Authorities Budget Office, unless otherwise required, in which the board member acknowledges that he or she understands his or her role and fiduciary responsibilities and acknowledges that he or she understands his or her duty of loyalty and care to the Agency and commitment to the Agency’s mission and the public interest.

### ARTICLE III
**Board Member Conduct**

A. **Conflicts of Interest.** Board members are required to conduct themselves in compliance with the conflict of interest requirements imposed upon members of industrial development agencies under Article 18 of the General Municipal Law and the requirements of the Agency’s Code of Ethics.

B. **Personal Loans.** Board members must refrain from accepting or approving any personal loan from the Agency.

C. **Decorum.** Board members must not engage in conduct or make any public statement likely to prejudice the functions of the Agency or harm, defame or otherwise bring discredit upon the Agency.

### ARTICLE IV
**Required Filings**

Board members are required by New York Public Authorities Law Section 2825 to file annual financial disclosure statements with the Erie County Board of Ethics. A completed financial disclosure form covering the immediately preceding calendar year must be submitted to the Erie County Board of Ethics on or before May 15 of each year.

### ARTICLE V
**Training**

A. All Board members appointed on or after January 13, 2006 must participate in State-approved training within one year of appointment.
B. All Board members must participate in continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities and to adhere to the highest standards of responsible governance.

ARTICLE VI
Agency Affiliates

This Statement of Duties and Responsibilities shall also be applicable to the Boards of the Buffalo and Erie County Regional Development Corporation ("RDC"), and Buffalo and Erie County Industrial Land Development Corporation ("ILDC") upon approval by the respective Boards of each corporation.

Re-adopted this 21st day of March 2018 by the respective Boards of each corporation referenced above.
Statement of the Competencies and Personal Attributes
Required of Board Members

Background:

Under Article IV(A)(1) of the Governance Committee Charter, the Governance Committee is required to "Develop a statement of the competencies and personal attributes required of Board members to assist those authorized to appoint members to the Board in identifying qualified individuals (it being acknowledged that membership in the Agency is determined pursuant to Section 891-a of the General Municipal Law)."

Under Section 891-a of the General Municipal Law, 14 of the 19 members of the ECIDA are automatically Board members by virtue of their election or appointment to various positions within the community. Therefore this statement only applies to the five members of the ECIDA who are jointly appointed by the Erie County Executive and the Chair of the Erie County Legislature.

Mandatory Attribute:

Under Section 891-a of the General Municipal Law, the five jointly-appointed members of the ECIDA must represent the "business, labor and minority communities of Erie County"

Desirable Attributes:

The following attributes are not required, but would be considered desirable:

- Experience starting or operating businesses
- Experience working with minority or women-owned firms
- Experience with economic development organizations
- Regional planning or International experience
- Lending or real estate experience
- College/University or Medical Industry experience
- Leadership or management experience
- Experience serving on other related Boards and Committees
- Financial or legal experience

Personal Attributes of Board Members

All board members should possess the following personal attributes:

- overall interest and enthusiasm in serving on the board
- level of integrity and lack of a conflict of interest
- time availability

Re-adopted this 21st day of March 2018 by the respective Boards of each corporation referenced above.
Erie County Industrial Development Agency ("ECIDA"), Buffalo and Erie County Regional Development Corporation ("RDC"), Buffalo and Erie County Industrial Land Development Corporation ("ILDC")

PROCUREMENT POLICY

A. Introduction

1. Applicability - This Procurement Policy ("Policy") shall apply to the Erie County Industrial Development Agency ("ECIDA") and its affiliated corporations: Buffalo and Erie County Regional Development Corporation ("RDC"), Buffalo and Erie County Industrial Land Development Corporation ("ILDC") and any other affiliated entities that may be established by the ECIDA (hereinafter collectively referred to as the "Agency") upon approval by the respective Board of Directors or Members of the Agency.

2. Scope – In accordance with Article 18-A of the General Municipal Law (the "GML"), Section 104-b of the GML, and the Public Authorities Accountability Act of 2005, the Agency is required to adopt procurement policies which will apply to the procurement of goods and services paid for by the Agency for its own use and account.

3. Purpose – Pursuant to Section 104-b of the GML, the primary objectives of this Policy are to assure the prudent and economical use of public monies in the best interests of the taxpayers of the County of Erie, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption.

B. Procedures

   a. Up to $5,000 per instance – The discretion of the Chairperson or chief executive officer of the Agency or authorized designee.
   b. Greater than $5,000 to $20,000 per instance – Documented verbal quotations or written/fax/email quotations from at least three vendors.
   c. Greater than $20,000 per instance – Written Request for Proposal.
   d. Notwithstanding the foregoing, should cumulative procurements pursuant to paragraphs a or b above exceed $50,000 per calendar year for a single vendor, the Agency shall be required to prepare a Written Request for Proposal for such procurements.
2. Exceptions. Alternative proposals or quotations shall not be required for procurements made through or with respect to:

a. New York State or Erie County Contracts – when the Agency is able to procure commodities, equipment, goods or services through New York State or Erie County contracts, it is unnecessary to obtain quotations or bids;

b. State Finance Law Section 175-b (from agencies for the blind or severely handicapped);

c. Correction Law Section 186 (articles manufactured in correctional institutions);

d. Emergency Procurements – an emergency exists if the delay caused by soliciting quotes would endanger health, welfare, property or an economic development opportunity. Approval of the Chief Executive Officer is necessary, which shall be documented and shall also include a description of the facts giving rise to the emergency.

e. Sole Source Procurements – A “sole source” means a situation where (i) there is only one possible source from which to produce goods and/or services available in the marketplace, (ii) no other goods and/or services provide substantially equivalent or similar benefits, and (iii) considering the benefits, the cost to the Agency is reasonable.

f. Utilities and Affiliate Transactions – The purchase of utilities and inter-affiliate transactions are excepted from alternative proposal/quotation requirements.

g. Unavailability of three (3) vendors who are able or willing to provide a quote.

3. Basis for the Award of Contracts.

Contracts will be awarded to the lowest responsible dollar offeror who meets the specifications therefor, except in circumstances that the Agency determines justify an award to other than the lowest responsible dollar offeror. In making any such determination, the Agency shall consider relevant factors including, without limitation:

a. Delivery requirements

b. Quality requirements

c. Quantity requirements
d. Past vendor performance and/or experience

e. The unavailability of three or more vendors who are able or willing to quote on a procurement.

f. It may be in the best interests of the Agency to consider only one vendor who has previous expertise with respect to a particular procurement.

g. Any procurement excepted from the alternative proposal/quotation requirements as set forth in subdivision 2 of this Section B, and the procurement of professional services in Section E of this Policy.

4. Documentation

a. A record of all solicitations for alternative proposals or quotations, the response (if applicable), and any determinations pursuant thereto shall be maintained in the procurement file.

b. For each procurement by the Agency the chief executive officer of the Agency or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.

c. Whenever an award is made to other than the lowest responsible dollar offeror the reasons for doing so shall be set forth in writing and maintained in the procurement file.

d. Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.

C. Erie County Businesses and Minority & Women Owned Enterprises.

It is the preference of the Agency to provide opportunities for the purchase of goods and services from (i) business enterprises located in Erie County and (ii) certified minority and/or women-owned business enterprises. To that end, the Agency will utilize available lists of M/WBE firms certified by Erie County and/or the State of New York and will solicit bids and proposals from such businesses by notifying them of opportunities to submit proposals and bids for goods and services. MBE and WBE businesses will be provided with sufficient time to submit proposals in response to solicitations.

D. Effect on Other Procurement Requirements.

Where the procurement of a specific good or service is to be accomplished using funds other than the funds of the Agency and such funding sources specify different or more restrictive procurement requirements than are provided for in this Policy, the procurement requirements of the funding source will supersede the requirements of this
Policy. Toward this end, the Agency will follow the procurement standards as set forth in 2 CFR Part 200 for any procurements utilizing federal funds unless otherwise superseded by the specific federal award agreement.

E. Professional Services.

Contracts for professional services involve the application of specialized expertise, the use of professional judgment, or a high degree of creativity. Professional services include services which require special education and/or training, license to practice or are creative in nature. Examples are: lawyers, doctors, accountants, and engineers. Furthermore, professional service contracts often involve a relationship of personal trust and confidence. Procurement of professional services below $20,000 is not subject to the solicitation procedures contained in Section B(1) of this Policy. Procurement of professional services greater than $20,000 is subject to the existing “Professional Services RFP Process” as amended from time to time. Specific professional services not otherwise identified within the “Professional Services RFP Process” are hereby deemed to be so included, as appropriate.

F. Procurement of Insurance.

Procurement of Insurance Brokerage services is subject to this Policy as a professional service. Notwithstanding the foregoing actual insurance policies procured are not subject to requirements of this Policy.

G. Procurement Lobbying Law.

In accordance with Chapter 1 of the Laws of 2005, generally referred to as the “Procurement Lobbying Law”, the Agency shall implement the provision of such Procurement Lobbying Law for any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of $15,000.

H. Unintentional Failure to Comply.

The unintentional failure to comply with the provisions of Section 104-b of the GML shall not be grounds to void action taken or give rise to a cause of action against the Agency or any officer thereof.

Adopted as amended this 21st day of March, 2018 by the respective Boards of each corporation referenced above.
Erie County Industrial Development Agency
Professional Services RFP Process and Policy
Adopted and amended as of March 21, 2018

Purpose

The purpose of this document is to establish a consistent and comprehensive process for the procurement of professional services in accordance with policies approved by the members of the Erie County Industrial Development Agency (ECIDA) and applicable laws and regulations. Professional services covered by this policy include legal, audit, banking, and insurance services.1

Professional Services RFP Process

1) RFP Development:
A Request for Proposal (RFP) for Professional Services will be drafted by ECIDA staff in accordance with this approved Professional Services RFP Process and Policy, applicable laws and regulations and best business practices.

2) RFP Notice/Distribution:
If applicable, copies of the RFP will be distributed to at least the top ten firms located in Erie County as listed in the most recent version of Business First’s annual “Book of Lists”. A notice of the RFP will also be published in the Buffalo News and a minority-focused publication. In addition, the notice of the RFP and/or a copy of the RFP may also be posted on the ECIDA website.

3) Restricted Period:
The New York State Finance Law imposes certain restrictions on communication between the ECIDA and a potential bidder during a procurement process, and requires that the ECIDA designate an individual(s) who will act as an authorized contact(s) during each procurement activity. Between the date of notice of intent to solicit proposals and the final award of the contract, bidders may only contact and communicate with the individual(s) as so designated within the applicable RFP procurement. When a bidder initiates contact with someone other than the designated contact(s) during the RFP time period when such contact is not permitted or attempts to influence the procurement in a manner that could reasonably be construed as a violation of the impermissible contact standard of the State Finance Law, an impermissible contact is deemed to have occurred. The ECIDA is required to collect and record information of those who contact the ECIDA or another governmental entity to influence a procurement. This information is incorporated into the procurement record and may result in rejection of a contract award. In the event of two such impermissible contact findings being made within a 4-year period, the bidder will be rendered ineligible to submit a proposal or to be awarded any procurement contract for a period of four years from the date of the second impermissible contact finding date.

4) Evaluation of Responses:

1 Professional services purchased under various State and local grant programs are excluded from the scope of this document as they generally have their own procurement process and procedures.
An ECIDA staff committee will review and evaluate the RFP responses based on the criteria outlined in the applicable RFP. For a short-list of firms, staff may contact the firms' references and/or request that the firms make oral presentations.

The ECIDA staff committee will then report the results of its evaluations and a recommended firm(s) to the appropriate Board Committee (i.e. Governance Committee for legal services, Finance & Audit Committee for audit, banking and insurance services). The appropriate Committee will then review and evaluate the staff’s analysis and recommendation regarding the preferred firm(s) and approve a recommended firm(s) for ultimate approval by the members of the ECIDA.

The members of the ECIDA will review the recommendation as so submitted by the appropriate committee regarding the recommended firm(s) before making a final decision on the procurement.

**Frequency of Solicitations**

The following table outlines the maximum period that may elapse before new proposals are to be solicited. The members of the ECIDA may elect to solicit proposals at any time within this maximum period.

<table>
<thead>
<tr>
<th>Professional Service</th>
<th>Maximum period before proposals are solicited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal – Corporate &amp; Tax Exempt Bond Counsel</td>
<td>Three (3) years plus two (2) additional one (1) year extensions based upon satisfactory performance, said extensions to be granted by approval of the appropriate reviewing committee as related to the services provided</td>
</tr>
<tr>
<td>Insurance Broker – General Liability &amp; Employee Benefits</td>
<td>Three (3) years plus two (2) additional one (1) year extensions based upon satisfactory performance, said extensions to be granted by approval of the appropriate reviewing committee as related to the services provided</td>
</tr>
<tr>
<td>Audit</td>
<td>Three (3) years plus two (2) additional one (1) year extensions based upon satisfactory performance, said extensions to be granted by approval of the appropriate reviewing committee as related to the services provided</td>
</tr>
<tr>
<td>Banking</td>
<td>Three (3) years plus two (2) additional one (1) year extensions based upon satisfactory performance, said extensions to be granted by approval of the appropriate reviewing committee as related to the services provided</td>
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<tr>
<td>Other procurements subject to competitive bidding requirements</td>
<td>Three (3) years plus two (2) additional one (1) year extensions based upon satisfactory performance, said extensions to be granted by approval of the appropriate reviewing committee as related to the services provided</td>
</tr>
</tbody>
</table>

**Annual Review Process**

On an annual basis ECIDA staff will evaluate all its professional service providers. In conducting their review, staff will consider: quality of service, responsiveness, significant changes in assigned professionals, and other similar factors. If staff has any concerns or issues with any provider, the provider will be notified and allowed three months to correct these deficiencies. If these concerns or issues have not been adequately addressed after the three month period, staff will notify the appropriate committee as related to the services being provided, of its intention to conduct a request for proposal solicitation.

Notwithstanding anything contained herein to the contrary, in accordance with Section 104-b of the New York General Municipal Law, goods and services must be procured in a manner so as:

1) to assure the prudent and economical use of public money in the best interests of taxpayers.
2) to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and
3) to guard against favoritism, improvidence, extravagance, fraud and corruption.

Therefore, notwithstanding the fact that a professional service provider may have previously received a favorable annual review(s), the ECIDA may nonetheless issue an RFP for Professional Services prior to the maximum period noted in the above “Frequency of Solicitations” section.

Adopted as amended this 21\textsuperscript{nd} day of March, 2018.