

**BROOME COUNTY
DEPARTMENT OF
AUDIT AND CONTROL**

**INDUSTRIAL DEVELOPMENT
AGENCY
AUDIT**

JANUARY 2001

Alex J. McLaughlin, Comptroller



Broome County

Department of Audit and Control

Edwin L. Crawford County Office Building / P.O. Box 1766 / Binghamton, New York 13902 / (607) 778-2227

DANIEL A. SCHOFIELD
Chairman of the Legislature

ALEX J. McLAUGHLIN
Comptroller

January 23, 2001

Jeffrey P. Kraham, County Executive:

The Department of Audit and Control has conducted an audit of the Broome County Industrial Development Agency. The purpose of our audit was to ascertain whether any obligation to repay funds loaned to the agency by Broome County has arisen during the period 1993 through 1999. The scope of our examination was limited to reliance upon the work of the agency's independent auditors as published in the agency's annual audited Financial Statements and upon supplemental schedules prepared by those auditors at our request.

The audit was conducted in accordance with generally accepted auditing standards. Such standards require that the Department of Audit and Control plan and perform the audit to adequately assess the accuracy of the financial records and adequacy of the internal controls, and that we examine, on a test basis, sufficient, competent and relevant evidence to afford a reasonable basis for our conclusions.

Based on the results of our examination, it is our opinion that the Broome County Industrial Development Agency does have an obligation to repay Broome County a portion of the funds loaned to the Agency.

Sincerely,

Alex J. McLaughlin
Comptroller

cc: Richard D'Attilio, Director, Economic Development Agency
Daniel A. Schofield, Chairman of the Legislature
Members of the Legislature
Louis P. Augostini, Clerk of the Legislature

Background Information:

On February 3, 1988, Broome County entered into an agreement with the Broome County Industrial Development Agency to loan funds that would assist the agency in financing the acquisition and development of the Broome Corporate Park. The agreement does not require repayment unless revenues from the sale of land at the Park exceed certain park expenses outlined in the contract. Over the period 1988 through 1992, \$1,332,910 was distributed to the agency. None of this amount has ever been repaid.

Prior Audits:

The Department of Audit and Control has performed two prior audits of the Broome County Industrial Development Agency. Both audits, released in January of 1993 and June of 1994, were related to the status of the funds loaned by the County to the Agency.

The 1993 report contained a significant finding wherein the Department of Audit and Control took the position that the Broome County Industrial Development Agency's audited financial statement for 1990 had not been properly prepared and that a portion of the County's loan (\$99,950) should have been repaid.

The Agency took strong exception to this and never repaid any money, arguing that the County auditors' position was incorrect.

As part of our work in executing this audit engagement, the 1993 finding was reevaluated.

After careful consideration of all materials supporting the Department of Audit and Control's original position, that the Agency should have repaid \$99,950 to the county, we continue to support this position and believe that the money should have been repaid.

AUDIT FINDINGS, RECOMMENDATIONS AND RESPONSES

FINDING 1: FAILURE TO REPAY LOAN IN ACCORDANCE WITH PROVISIONS OF AGREEMENT

During the course of our examination, we discovered that the Broome County Industrial Development Agency has not complied with aspects of its contractual agreement with Broome County that require the Agency to repay amounts loaned to it by the County when certain conditions are met.

Specifically, the contract between the Agency and the County, at paragraph 3, section a, states the following:

“3.a) Beginning with calendar year 1988, any calendar year in which gross revenues to the BCIDA arising out of the sale of land in the Broome Corporate Park exceed park expenses paid by the IDA in said calendar year, the BCIDA shall pay to the County 50% of that revenue.”

During the years 1997, 1998, and 1999 (covered by this audit) and during 1990 (covered by a previous audit), the Agency’s revenues from land sales exceeded expenses as follows:

	1997	1998	1999	1990*
Revenues:	\$387,535	\$561,697	\$255,000	\$450,000
Expenses:	<u>\$256,171</u>	<u>\$241,624</u>	<u>\$231,719</u>	<u>\$250,100</u>
Net Revenue: (as defined by contract)	<u>\$131,364</u>	<u>\$320,073</u>	<u>\$ 23,281</u>	<u>\$199,900</u>
Required Payment:	\$ 65,682	\$160,037	\$ 11,641	\$ 99,950

* 1990 was outside of the period covered by this audit, however, our reevaluation of the status of this period’s results, as previously published in an audit report released by this Department in 1993, has caused us to continue to support the position that this money is owed to Broome County.

Accordingly, Broome County should have been paid \$ 337, 310. In fact, the county was paid nothing.

RECOMMENDATION:

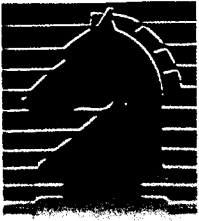
We recommend that the Broome County Industrial Development Agency repay Broome County \$337,310, in accordance with the requirements of the Agency's contract with the County.

AUDITOR'S NOTE:

Our initial discussions with Agency staff and the Agency's auditors caused us to be sympathetic to the potential for it to be impractical for the agency to adhere to the terms of their agreement as relates to the repayment provisions, due to the potential differences between net revenue calculated on an accrual basis of accounting and the availability of cash to fund repayment. Upon further analysis, however, we discovered that in each of the years under audit, the Agency did have sufficient cash on hand to fund the required disbursement. Additionally, we discovered that as of December 31, 1999, the close of the period under audit, the Agency had sufficient cash on hand to fund the full \$337,310 required repayment.

While we understand the importance of economic development and appreciate the need to approach this objective with a "big picture" view, the Agency is, nevertheless, required, under the terms of its present agreement, to return these funds to the County. That does not mean that these funds will be lost for purposes of economic development, which without question is vitally important to the success of our community and to the fortunes of our residents. The County might very well choose to plow these funds right back into the Agency or into some other important economic development purpose, but, the funds and the choices rightfully belong to the County.

What follows, is the response to our audit that we received from the Broome County Industrial Development Agency.



BROOME COUNTY

INDUSTRIAL DEVELOPMENT AGENCY

September 6, 2000

Mr. Alex McLaughlin
Comptroller
Department of Audit and Control
Edwin L. Crawford County Office Building
P.O. Box 1766
Binghamton, NY 13902-1766

RE: Broome County Industrial Development Agency Audit
Management Response

Dear Alex:

After careful review of the draft audit findings of the Broome County Industrial Development Agency performed by the Broome County Department of Audit and Control, I respectfully submit the following response to issues identified.

It seems clear that there is a fundamental difference of opinion in determining the actual conditions that would cause the BCIDA to be responsible for making a loan repayment, i.e. "3.a)...in any calendar year in which gross revenues to the BCIDA arising out of the sale of land in the Broome Corporate Park exceed park expenses paid by the IDA in said calendar year, the BCIDA shall pay to the County 50% of that revenue." Contributing to this difference of opinion on the terms of this agreement are the definitions of expense and revenue. Expenses are defined as being "paid in said calendar year," so clearly measured on a cash basis. Revenue, however, is not defined, but a generally accepted accounting principal would be to match the recognition methods for revenue and expense. Therefore, it was our conclusion that revenue must also be recognized on a cash basis to provide for a proper matching.

It is the opinion of the BCIDA that expense and revenue should be defined on the basis of actual cash flow in any given year. Specifically, the IDA believes that the comparison of actual expenses to actual revenue received from land sales only should be the basis on which the determination of excess revenues should be calculated.

The BCIDA contends, that using actual cash flow as the basis for determining revenue vs. expenses, the BCIDA never experienced a year in which revenue (cash) exceeded expenses. (See attached schedule). It is therefore our belief that we have been and are currently in compliance with the terms of the agreement with the County.

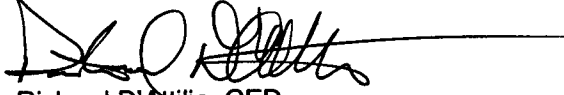
Further, I would like to point out that evaluation of revenue vs. expense on an annual basis does not reflect the total expense vs. revenue picture at the Corporate Park. Again referring to the attached schedule, you can see that in the aggregate the IDA shows a significant loss either on a cash or accrual basis.

In closing, I would like to state that it has always been and will continue to be the BCIDA's intention to meet its obligation to the County under the terms of this agreement. It is unfortunate that the lack of definitional specificity and the vague nature of this agreement continues to further our difference of opinion.

Broome County - A Strategic Move

In the spirit of cooperation and in recognition of our past, present, and future partnership with Broome County, I would suggest that we re-visit this agreement and discuss a revised contract that supports a mutually beneficial economic development partnership.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard D'Attilio", with a long horizontal line extending to the right.

Richard D'Attilio, GED
Executive Director