

August 06, 2024

Mr. Darrel J. Saizan, Jr.
Industrial Development Board of the City of New Orleans, Inc.
1340 Poydras St., Suite 1114
New Orleans, LA 70119

RE: Industrial Development Board Payments In Lieu of Taxes (PILOT) Agreements

Dear Mr. Saizan:

The Office of Inspector General (OIG) is authorized to review “rules, regulations, policies, procedures, and transactions” in order to “prevent and detect fraud, waste, and abuse, and to promote efficiency and effectiveness in city programs and operations.”¹ This letter addresses our review of the process used by the Industrial Development Board of the City of New Orleans (IDB) to approve projects in its Payments In Lieu of Taxes (PILOT) program.

A PILOT is one type of economic tax incentive, which are sometimes used by local governments to encourage private development projects that stimulate economic growth in a jurisdiction.² In most PILOT agreements a public entity such as an industrial development board takes title to property in order to issue bonds, and leases the property back to the developer during the bond repayment period. Because the owner in title is a public entity, the property is exempt from property tax during the redevelopment period.³ However, developers may submit payments to local government entities to offset property tax losses and to pay for city services.⁴ These payments may equal the full value of the lost property taxes, or they may be lower, effectively providing a subsidy to the developer.

¹ City Code Sec. 2-1120(2), 2-1120(10)(f). See also Home Rule Charter of the City of New Orleans Sec 9 -401(2).

² Gary Sands et al., “Implementing Tax Abatements in Michigan: A Study of Best Practices,” *Economic Development Quarterly* 20, no. 1 (February 2006): 44, <https://journals.sagepub.com/doi/abs/10.1177/0891242405279369>.

³ Bureau of Governmental Research, *Protecting New Orleans’ Tax Base: Which PILOTs Should Fly?* (New Orleans, LA: Bureau of Governmental Research, 2007), https://www.bgr.org/wp-content/uploads/2017/07/Which_PILOTs_should_fly_BGR.pdf.

⁴Ibid., 1.

Local governments sometimes use tax incentives, such as PILOTs, to attract business to undesirable areas or areas with high property taxes.⁵ However, as the Bureau of Governmental Research noted in a 2007 report, PILOT subsidies may have the negative impact of giving recipient businesses an unfair advantage over competitors, eroding the tax base, or transferring the tax burden to other taxpayers if the development increases the local government’s operating expenses.⁶ Despite the benefits, such programs can be risky, since the incentives might be misused and public resources may not be directed to their “highest and best use.”⁷ For this reason, government agencies must award PILOTs appropriately to ensure the City receives sufficient benefits from any property tax subsidies.

State law authorized the creation of industrial development boards in Louisiana, managed by a board of directors elected by “the governing body of the municipality.”⁸ Pursuant to a resolution of the New Orleans City Council, the Industrial Development Board of the City of New Orleans, Inc. (IDB) was incorporated in 1973, with a mission to “assist in the creation of new projects, the creation and retention of jobs, and the revitalization of existing sites through tools like [PILOTs] and tax-exempt bonds.”⁹

In 2018, the Mayor’s Office of Economic Development (OED) hired a consultant to evaluate New Orleans’ economic incentive programs, including PILOTs overseen by the IDB, to assess how incentives aligned with “broader citywide economic and community development policy goals.”¹⁰ According to the consultant, IDB’s PILOT program cost the City \$109 million in property taxes between 2007 and 2016.¹¹ The consultant’s report made several recommendations related to the overall application process, selection process, and evaluation process. Specifically, the report recommended the IDB “assess governance procedures to increase accountability” and consider “establishing formalized procedures for engaging other local taxing entities in the decision-making process.”¹² Other recommendations included setting clear objectives aligned with the City’s

⁵ Richard Funderburg et al., “Is Tax Compensation Strategic? Spatial Distributions of Business Property Tax Abatements in the Chicago Suburbs”, *Economic Development Quarterly* 35, no. 1 (2021): 67, <https://journals.sagepub.com/doi/full/10.1177/0891242420977694>.

⁶ Bureau of Governmental Research, *Protecting New Orleans’ Tax Base: Which PILOTs Should Fly*, 3.

⁷ Government Finance Officers Association, *Best Practices: Establishing an Economic Development Incentive Policy* (Chicago, IL: Government Finance Officers Association, 2017), <https://www.gfoa.org/materials/establishing-an-economic-development-incentive-policy>.

⁸ La. R.S. 51:1152(B); La. R.S. 51:1156(A).

⁹ “About the Industrial Development Board,” Industrial Development Board, last modified May 09, 2024, <https://nola.gov/next/economic-development/topics/industrial-development-board/>. Industrial Development Board of the City of New Orleans, Inc, *Articles of Incorporation of Industrial Development Board of the City of New Orleans, Louisiana, Inc.* (New Orleans, LA: Industrial Development Board of the City of New Orleans, 1973).

¹⁰ Mayor’s Office of Economic Development of the City of New Orleans, *Alignment of Public Incentives for Strategic Outcomes* (New Orleans, LA: Mayor’s Office of Economic Development, 2018), 5.

¹¹ *Ibid.*, 6.

¹² *Ibid.*, 48.

economic policy goals, establishing program guidelines, and defining the circumstances under which deviations from these guidelines would be appropriate.¹³

The OIG conducted a review of the PILOT program to assess whether the program operated as intended and according to internal policies and procedures. According to the City’s website, the IDB had awarded 120 PILOT grants since 1973, for a total of \$1.7 billion in capital investments.¹⁴ The OIG’s review revealed that the IDB received eight PILOT applications between the years 2020-2024. Of these, three projects were awarded PILOT grants, with an estimated value of \$3,448,362 over the lifetime of the PILOTs. At the time of the OIG’s review in early 2024, the IDB had 36 active PILOT projects, most of which originates prior to 2020.

The IDB’s PILOT Program Policies

The Government Finance Officers Association (GFOA) recommends that governmental bodies develop a clear policy regarding economic incentives to ensure that “incentives are applied consistently with principles and practices designed to mitigate” the risk of misuse.¹⁵ The GFOA also recommended policies include the goals and objectives of the program, the permitted types of incentives and any corresponding restrictions, and a clear process for evaluating proposed projects.

In New Orleans, the IDB documented their PILOT approval process in *New Orleans IDB Application and Approval Process for Payments in Lieu of Tax (PILOT) Proposals*, a publicly available flowchart detailing a four-month approval process.¹⁶ The IDB did not have any other formal, written policies or procedures to guide the approval process besides this one-page flowchart. According to the flowchart, the process began with a discussion between developers and the IDB counsel to determine project eligibility. The application process required developers to obtain a letter of support from the City Council member in whose district the proposed project was located and a budget showing all funding sources. The application was then distributed to IDB board members and representatives from the OED for consideration. The OED provided feedback to the IDB regarding any relevant information about the proposed project, especially information related to community opposition or whether the project aligned with a priority Industry.

Following preliminary approval, IDB consultants prepared a but-for analysis and a cost-benefit analysis.¹⁷ Although the OED did not formally approve projects, the flow chart indicated the OED

¹³ Ibid., 47-48.

¹⁴ “About the Industrial Development Board,” Industrial Development Board, last modified May 09, 2024, <https://nola.gov/next/economic-development/topics/industrial-development-board/>.

¹⁵ Government Finance Officers Association, *Best Practices: Establishing an Economic Development Incentive Policy*, 1.

¹⁶ “New Orleans IDB Application Process for Payment in Lieu of Tax (PILOT) Proposals,” Industrial Development Board of the City of New Orleans, LLC, accessed December 20, 2023, <https://nola.gov/getattachment/Economic-Development/Industrial-Development-Board/IDB-Document-Library/E3-NOIDB-PILOT-Flowchart.pdf/?lang=en-US>.

¹⁷ A but-for analysis is used to identify the portion of economic activity attributable to an incentive.

provided a recommendation to the IDB after the preliminary approval. However, OED representatives stated the recommendations were informal email communications consisting of “their thoughts on the project.”

Following months of analysis, consultant reports, and presentations by the prospective developer, the IDB made a final decision regarding the application. Yet, while the flowchart laid out an outline of the approval process, there were no other written guidelines that detailed how and which projects should be approved. Additionally, there were no policies that guided any of the intermediate steps in the process, especially the processes for determining which grant applications should be approved, as will be discussed below. As such, the IDB’s flowchart did not align with best practices for the types of documentation that should guide the approval of PILOT grants.¹⁸ Further, the IDB’s process was inconsistent with the recommendations provided by the 2018 consultant report, which stated the IDB should “establish program guidelines to improve transparency...” and “assess governance procedures to increase accountability.” Both recommendations discuss the need for formal and standardized procedures.¹⁹

The PILOT Selection Process

In addition to the IDB’s overall policies and procedures, the OIG reviewed the IDB’s PILOT selection process. The GFOA recommended the use of standardized selection processes to further “public objectives, while also minimizing risk to the government.”²⁰ According to the International Monetary Fund, a good appraisal and selection process increases the probability that projects will provide maximum benefit to society, while avoiding inefficient operations. Accordingly, well-defined processes for project selection are critical to “good infrastructure governance,” resulting in fewer inefficiencies and incomplete projects.²¹ In addition, standardized selection processes and procedures reduce “overprogramming,” decrease outside influence, and clarify the roles of decision makers.²² When selecting projects, the GFOA recommended governments identify benefits and costs, consider impacts to surrounding areas, and assess the growth and diversification of the revenue base.²³ Finally, the OED’s consultant’s report recommended IDB develop an evaluation tool

¹⁸ Government Finance Officers Association, *Establishing an Economic Development Incentive Policy*, 1.

¹⁹ Mayor’s Office of Economic Development, *Alignment of Public Incentives for Strategic Outcomes*, 48.

²⁰ Government Finance Officers Association, *Best Practices: Evaluating and Selecting Economic Development Projects* (Chicago, IL: Government Finance Officers Association, 2017), 1, <https://www.gfoa.org/materials/establishing-an-economic-development-incentive-policy>.

²¹ Robert Taliencio and Eduardo Andrés Estrada, “Best Practices in Project Appraisal and Selection,” in *Well Spent: How Strong Infrastructure Governance Can End Waste in Public Investment*, ed. Gerd Schwartz (Brentwood, NH: International Monetary Fund, 2020), 249-64.

²² *Ibid.*, 249, 251, and 260.

²³ Government Finance Officers Association, *Best Practices: Evaluating and Selecting Economic Development Projects*, 2.

to “facilitate initial deal assessments” to aid the City in projecting the costs and benefits of each agreement.²⁴

The OIG’s review found that, contrary to best practice guidelines, the IDB did not have a standardized selection process. As mentioned above, the IDB used reports from two separate analyses in determining whether to approve PILOT grants. The first analysis was a cost-benefit analysis that compared the benefits to the City of awarding the PILOT against the cost of tax revenue losses. The second consultant report was a “but-for” analysis, which sought to determine 1) whether the PILOT grant was needed to address a financial gap that would hinder the project from moving forward without the provision of PILOT funds, and 2) whether developers could prove the amount needed to successfully complete the project. The but-for analysis looked for gaps in a project’s financial structure, which included examining the project’s financing and cashflow.

According to the *Handbook for Practical Program Evaluation*, cost-benefit analyses were useful in determining the total benefit to society of a single program, or identifying which program provided greater benefit, when comparing multiple programs.²⁵ Further, the GFOA recommended that governments should analyze “the specific benefits, costs, and risks” when evaluating economic development projects.²⁶ Therefore, IDB’s use of cost-benefit and but-for analyses was consistent with best practices.

However, the results of these analyses were not used in an objective or methodological manner. The IDB did not use a scoring matrix to assess the merits of proposed projects as recommended in the 2018 report.²⁷ Instead, the IDB’s Executive Committee and their legal counsel met with developers and representatives from the OED for a Review Meeting in which they discussed the consultants’ reports prior to a final vote by the full board at a public meeting. While the review meeting provided an opportunity to discuss the consultants’ reports, the lack of standardized selection criteria allowed opportunities for outside influence to affect the selection process, potentially overlooking concerns, and using limited resources on projects that did not meet the City’s social and economic policy goals.²⁸

For example, OIG evaluators found at least one instance in which the IDB approved a high-profile project despite reservations outlined in the consultants’ reports. In that instance, the but-for

²⁴ Mayor’s Office of Economic Development of the City of New Orleans, *Alignment of Public Incentives for Strategic Outcomes*, 48.

²⁵ Stephanie R. Cellini and James Edwin Kee, “Cost-Effectiveness and Cost-Benefit Analysis,” in *Handbook of Practical Program Evaluation, Fourth Edition*, ed. Kathryn E. Newcomer et al. (Hoboken, N.J.: John Wiley & Sons, Inc., 2015), 638-639.

²⁶ Government Finance Officers Association, *Evaluating and Selecting Economic Development Projects*, 1.

²⁷ Mayor’s Office of Economic Development, *Alignment of Public Incentives for Strategic Outcomes*, 48.

²⁸ *Ibid.*, 48. See also Stephanie R. Cellini and James Edwin Kee, “Cost-Effectiveness and Cost-Benefit Analysis,” 249.

analysis reported that providing a recommendation related to the project would be “premature,” and that the board should not make a decision without receiving additional documentation from the developer. The consultant who conducted the cost-benefit analysis also raised concerns about the project. While estimates provided by the developer indicated increased tax revenues would outweigh the loss in property tax due to the PILOT, the consultant had concerns about the accuracy of these projections given the demographic characteristics of New Orleans and the expected income of jobs created by the project. Nevertheless, the IDB voted to approve a PILOT grant for the project.

Clearly defined selection criteria would provide the IDB with a mechanism to objectively assess overall PILOT effectiveness, which development projects to prioritize, and whether policies and procedures continue to align with PILOT goals. Further, program goals should recognize the need for deviations under certain conditions and provide a framework for doing so.²⁹ The lack of such criteria increases the risk of fraud, waste, abuse, and opportunities for outside influences on the selection process, potentially resulting in the selection of projects that are not beneficial to the City.

PILOT Program Evaluation

In 2022, the OED released the *Plan for Generational Economic Transformation* (Plan), which outlined the City’s economic development priorities.³⁰ The Plan focused on “investing” in the City’s economic development by growing business, creating jobs, improving quality of life, and diversifying the economic base.³¹ The Plan also focused on redeveloping city-owned property and workforce development.³² However, the OED’s 2018 consultant report determined the IDB did not have a formal process for evaluating the overall effectiveness of its PILOT program.³³

To the IDB’s credit, the PILOT program included certain lease provisions that were intended to help the program meet at least one of the City’s priorities for economic development. Specifically, the IDB required developers to adopt an employment plan consistent with the City’s Local Construction Worker (LCW) and Disadvantaged Business Enterprises (DBE) initiatives. Developers were required to make reasonable efforts to ensure at least 40 percent of work went to local construction workers and at least 35 percent of the capital cost of the project was awarded to DBEs.³⁴ To ensure developers complied with these provisions, the IDB required developers to document the steps

²⁹ Mayor’s Office of Economic Development, *Alignment of Public Incentives for Strategic Outcomes*, 48.

³⁰ Mayor’s Office of Economic Development, *Plan for Generational Economic Transformation* (New Orleans, LA: New Orleans Office of Economic Development, 2022), <https://nola.gov/next/economic-development/home/>.

³¹ *Ibid.*, 9.

³² *Ibid.*, 4-5, 15.

³³ Mayor’s Office of Economic Development, *Alignment of Public Incentives for Strategic Outcomes*, 48.

³⁴ Industrial Development Board of New Orleans, *Standards for Meeting Employment Goals for Construction Projects Receiving Incentives from the New Orleans IDB* (New Orleans, LA: Industrial Development Board of the City of New Orleans, 2022) 1, <https://nola.gov/getattachment/Economic-Development/Industrial-Development-Board/IDB-Documents/Standards-for-Meeting-Employment-Goals-5-10-22.pdf?lang=en-US>.

taken to meet DBE goals. If developers failed to meet their employment goals, the IDB issued an annual “clawback penalty,” which was a percentage of the savings received through the PILOT.

Yet, in its 2018 report, the City’s consultant noted the PILOT program’s failure to attract projects that resulted in the creation of high-paying jobs. According to the report, PILOTs created on average 175 new jobs per project, with an average annual wage of \$36,750.³⁵ The report also emphasized the need to utilize a consistent selection process that was tied to the City’s policy objectives, including job creation.³⁶ In the OIG’s current review of the program, evaluators learned that, while the IDB worked with City departments to meet certain economic priorities, such as DBEs, many PILOT projects primarily focused on increasing local employment during the construction phase only. Interviews with City employees revealed concerns that PILOTs lacked focus on creating permanent jobs after the construction phase. This was inconsistent with the City’s priority focus on Human Capital and Workforce Development, for which the first goal was “high-quality jobs that include fair wages, benefit, and career pathways.”³⁷ It was also inconsistent with the stated mission of the IDB, a key component of which was to “assist in ... the creation and retention of jobs.”³⁸ Although the program worked to meet some of the City’s goals for economic development, other long-term goals were unmet.

Considering the issues identified above, the OIG recommends the IDB review and implement the recommendations provided by the City’s consultant in its 2018 report.³⁹ In accordance with that document, the IDB should set clear programmatic goals and objectives for the PILOT program that align with the City’s priorities for economic development. These goals should be incorporated into formal and transparent policies, procedures, and selection criteria for awarding PILOT grants. Finally, the IDB should routinely evaluate the PILOT program to assess its effectiveness in helping the City meet economic development priorities and goals.

³⁵ Mayor’s Office of Economic Development, *Alignment of Public Incentives for Strategic Outcomes*, 45.

³⁶ Mayor’s Office of Economic Development of the City of New Orleans, *Alignment of Public Incentives for Strategic Outcomes*, 48.

³⁷ Mayor’s Office of Economic Development, *Plan for Generational Economic Transformation*, 32.

³⁸ “About the Industrial Development Board,” Industrial Development Board, last modified May 09, 2024, <https://nola.gov/next/economic-development/topics/industrial-development-board/>.

³⁹ Mayor’s Office of Economic Development, *Alignment of Public Incentives for Strategic Outcomes*, 47-48.

The OIG is confident that the development of formal policies and procedures will reduce opportunities for fraud, waste, and abuse, and limit the intrusion of outside influences on the awarding of PILOT grants. Further, the efficient administration of the PILOT program demonstrates good stewardship of the City's tax dollars.

Sincerely,

A handwritten signature in blue ink that reads "Edward Michel". The signature is written in a cursive style with a small dot above the letter 'i' in "Michel".

Edward Michel, CIG
Inspector General