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## **Final OIG Report on Evaluation of PILOT Hearings<sup>1</sup>**

The Office of Inspector General was asked to review and comment on the testimony and documentary evidence presented to the City Council in the course of hearings regarding the administration and status of the PILOT (Payment In Lieu Of Taxes) projects operated by Mount Vernon IDA (Industrial Development Agency). This document is in response to that request.

### **Objectives:**

City Council initiated this evaluation for the purpose of understanding the status of PILOT projects under the auspices of the IDA in the City of Mount Vernon. The objective was to understand the current number of PILOT programs, the terms of the various Agreements and whether each project was current in their payments. In addition, the Council wanted to understand the process and procedures for project application, review, approval and administration.

### **Scope:**

The inquiry was directed to the IDA but, the scope of inquiry was specifically limited to PILOT projects. The council probed the application and approval process as well as the internal controls for project administration. In addition, the Council sought an accounting of funds collected and disbursed. The council did not request official bank statements of the Agency.

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<sup>1</sup> This report contains references to exhibits contained in the original. The exhibits consist of excerpts from two documents published by the Office of New York State Comptroller. Those documents are (1) Accounting and Reporting Manual for Industrial Development Agencies, at [http://www.osc.state.ny.us/localgov/pubs/arm\\_idas.pdf](http://www.osc.state.ny.us/localgov/pubs/arm_idas.pdf) and (2) Industrial Development Agencies in New York State - Background, Issues and Recommendations at <http://www.osc.state.ny.us/localgov/pubs/research/idabackground.pdf> . The reader is directed to the aforementioned sites for the full document.

## **Methodology:**

Commencing in March 2007, the City Council sent letters to (a) Mayor [and Chairman of the IDA], (b) City Comptroller [and Treasurer of IDA], (c) Assessor, and (d) Executive Director of Urban Renewal Agency [and Secretary to IDA], requesting various information and documents pertaining to PILOT projects. After failing to receive a complete response to their initial requests, the Council engaged the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP as legal counsel. Engaged counsel then sent written interrogatories to the aforementioned individuals requesting (1) a ten year history of PILOT programs in the City of Mount Vernon, (2) a listing of all PILOT programs currently in effect, associated annual payments and the respective payment status, (3) a listing of all filings made with New York State over the previous 10 year period in regard to PILOT programs in Mount Vernon and (4) copies of the executed PILOT agreements including property location and description. Some information was provided but other requested data (i.e., current payment status, 10 year history of projects and filings) was not included. Finally, on or about December 26, 2007, after previous requests failed to produce the information, the Council issued subpoenas to the IDA Secretary, Treasurer, and City Assessor. Hearings were conducted on January 15, 2008 (Secretary), January 17, 2008 (Assessor) and February 6, 2008 (Treasurer).

Subsequent to the hearings, the City Council requested that this office (Mount Vernon Office of Inspector General) review the hearing transcripts and exhibits and make findings and recommendations with regard to (a) compliance, (b) process and procedures and (c) overall program administration.

In addition to the hearing documents (transcripts and exhibits), the OIG reviewed the New York State statutes governing the creation and administration of PILOT programs under municipal IDA's, New York State Comptroller's Accounting and Reporting Manual for Industrial Development Agencies, audit results of New York City PILOT projects and conducted limited interviews of City Council members. The OIG did not conduct a formal audit of IDA or PILOT projects *per se*. Rather, this report is narrowly constrained to the hearing transcripts, exhibits and published statutes and guidelines from the Office of New York State Comptroller.

## **Results**

### **Executive Summary**

The PILOT projects as currently administered by the Mount Vernon IDA are not in compliance with New York State law. The IDA lacks appropriate internal controls and accounting procedures. There is a lack of communications between the key participants in the administration process and project status is not provided to City Council. After a thorough review of the sworn testimony and submitted documentation, it is impossible to determine and validate with any degree of certainty (1) how many valid PILOT projects exist, (2) whether the projects are current in their payments or (3) what the actual payment is even supposed to be in some instances. Certain key documents appear nonexistent, lost or secreted. Financial controls appear arbitrary and inadequate, thereby exposing the program to inefficiencies, fraud, waste and abuse. Finally, the IDA's independent auditor failed to employ the correct standard in conducting the annual audit and failed to include all of the legally required supplemental schedules.

## Findings

### I. The PILOT Project Administration Is Not In Compliance With New York State Law

As a preliminary matter and as background, municipal PILOT projects are specifically authorized by the New York State Industrial Development Agency Act (Title 1 of Article 18-A of the General Municipal Law) and Chapter 1082 of the 1974 Laws of New York, as amended, to issue non-recourse revenue bonds to provide financing to property owners for qualified projects. In addition, IDA provides other benefits to property owners to induce businesses to remain in, or relocate to, the host municipality including: exemption from City and State mortgage recording taxes; exemption from City and State sales and use taxes; and granting PILOTs.

PILOTs, which are contained in lease agreements between the City and the property owners, are intended to offer owners real property tax relief. Under these agreements, property owners are exempt from paying real property taxes; instead, they pay an amount prescribed by the agreement that is generally less than the property tax. It is also expected that the PILOT projects will generate and/or retain job opportunities in the host municipality.

In other municipalities, the administration of IDA PILOTs is outlined in a Memorandum of Understanding (MOU) between the participating municipal entities (i.e., IDA, URA, Assessor, Department of Finance/Comptroller, etc.) Although the specific question was not asked in this case, it does not appear that an MOU is in place for the PILOT projects in Mount Vernon.

#### A. Reporting Requirements

Section 859 of New York State General Municipal Law requires each municipal IDA to maintain proper books and records (adhering to General Accepted Government Accounting Practices). Section 859(b) provides the following reporting requirements:

- (b) Within ninety days following the close of its fiscal year, each agency or authority shall prepare a financial statement for that fiscal year in such form as may be prescribed by the state comptroller. Such statement shall be audited within such ninety-day period by an independent certified public accountant in accordance with government accounting standards established by the United States general accounting office. The audited financial statement shall include supplemental schedules listing all straight-lease transactions and bonds and notes issued, outstanding or retired during the applicable accounting period whether or not such bonds, notes or transactions are considered obligations of the agency . . . **For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project.** (Emphasis added)

- (c) Within thirty days after completion, a copy of the audited financial statement will be transmitted to the commissioner of the department of economic development, the state comptroller and *the governing body of the municipality for whose benefit the agency was created.* (Emphasis added)[See **Exhibit 1**, attached]

The record in this case suggests that the Mount Vernon IDA has not adhered to the aforementioned reporting requirements. Indeed, if the reporting requirements had been fully complied with, there would have been no need for the year-long inquiry into the status of the PILOT projects. Council members interviewed indicated they had never been presented with an annual report of the number and status of PILOT projects over the past ten years. During the testimony of the IDA Treasurer, the question was asked with regard to the status and availability of audited annual reports of the IDA ( Tr., pp. 158, line 20):

- Q. Okay, Just for the record, I would request that - you have provided to us this evening the 2006 and I believe 2005. Over the past ten years, were there audits in the years leading up to 2005 and 2006 for the IDA?
- A. Yes, there were.
- Q. Can you provide us copies of those audits?
- A. I don't know whether that's going to be readily available.

The inescapable conclusion is that the audited financial statements of the IDA were not provided to City Council, as required under State law, over a ten-year period. Equally disturbing is the response that the Treasurer did not know the availability of the requested reports. There should be documented records retention requirements and the financial officer should have knowledge as to the location and accessibility of the financial records of the agency.

## **B. Supporting Schedules to Annual Report Are Incomplete**

The audited annual reports presented at the hearing do not contain the State mandated information with regard to PILOT projects. The plain language of the statute requires the schedule(s) attached to the audited annual financial statement to contain "the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project." The schedules presented at the hearing do not contain the aforementioned details for the PILOT projects for the years indicated.

In addition, the supplemental schedule does not address the issue of jobs retained or created by the project. The inclusion of the jobs information is an audit point for the state comptroller. (Interestingly, according to New York State records, jobs data was reported by Mount Vernon IDA in calendar year 2004 but, there is no jobs data contained in the audited financial statements for 2005 and 2006 which were presented to the Council during the hearings.)(See, attached **Exhibit 2**) Accordingly, the Mount Vernon IDA PILOT projects are not in compliance with New York State law because (1) the annual reports do not contain all of the necessary information and (2) the reports, to the extent that they were actually created, were not presented to the governing body of the City of Mount Vernon (City Council) as required.

At one point during the hearings, a question was asked as to why the supplemental schedule to the Annual Audit of the IDA for 2006 listed only three properties as opposed to a larger list of identified PILOT projects. The answer seemed to suggest that the only reporting necessary was Bond indebtedness. Specifically, the witness was asked (Tr., pp. 121, line 5):

- Q. Ms. Comptroller, I'm going to direct your attention to Council Exhibit DD and back to the audit that was done by Yeboa & Lawrence, CPA, and this is for the 2006 financial audits back to the page that you were discussing with Mr. Horton where it sets forth three properties. In your mind in 2006, how many properties were paying subject to the PILOT?
- A. How many properties were paying PILOTS?
- Q. Yes.
- A. I'm going to estimate approximately eight.
- Q. And can you explain why there are only three properties listed on this statement of indebtedness to the IDA?
- A. These properties are properties that have come to the IDA to the best of my knowledge and they have bonds, that's what I explained before.
- Q. Okay. So they don't –
- A. This is a bond indebtedness statement.
- Q. As opposed to a PILOT payment.

The above-referenced “statement of indebtedness” is the only supplemental schedule attached to the audit report. The accountant’s introduction to the supplemental material clearly states that “The supplemental material presented . . . is not a required part of the basic financial statements.” To the extent that referenced **Exhibit DD** represents the audit report which was filed with New York State, it is grossly deficient with regard to state requirements for supplemental schedules. (See, attached excerpts from Office of New York State Comptroller’s Accounting and Reporting Manual for Industrial Development Agencies, **Exhibit 1, pp. 16**) This indicates a lack of awareness on the part of the auditing firm as to what is and is not required in IDA audit reports to be filed with the State of New York. If, for whatever reason, a waiver was approved by the state to excuse Mount Vernon from the normal reporting requirements, the audit report should so indicate.

### **C. The Stated Audit Standard for The IDA Annual Report is Inadequate**

The auditor’s engagement letter with respect to the audit standards applied is inadequate. The letter states “We conducted our audit in accordance with generally accepted auditing standards.” This is insufficient. There are three sources of auditing standards and requirements; (1) General Accepted Auditing Standards (GAAS); (2) Generally Accepted Government Auditing Standards (GAGAS); and (3) Single Audit Act Requirements. Supplemental standards for financial audits of governments, as well as standards for public-sector performance auditing, have been established by the Government Accountability Office (GAO) in its publication Government Auditing Standards (revised 2007), commonly referred to as the “yellow book.” By specific reference in the yellow book, GAGAS include GAAS and provide supplemental standards for financial, as well as performance audits of governments. New York State law requires GAGAS to be met. The auditor’s engagement letter must acknowledge and confirm that GAGAS was met in addition to GAAS. The audit letter from Yeboa & Lawrence fails to meet this requirement.

## **II. The IDA lacks appropriate internal controls and accounting procedures.**

Based upon the testimony and exhibits presented at the hearing, there is no single list of PILOT projects and their status. During the hearings, at least three different lists of PILOT projects were presented and the number of projects identified varied from seven to 14. The various lists were never reconciled. This makes it impossible to know with any degree of certainty just how many projects are active and how much revenue should be expected from those projects.

### **Projects Are Not Properly Tracked**

Testimony was elicited that established the fact that PILOT projects are not tracked by anyone until such time as the initial payment is received. (Transcript, pp. 101-102) As a general rule, the first payment is not due until sometime after the beginning of the next full tax year following the execution of the PILOT Agreement. As a legal matter, the execution of the Agreement triggers the legal obligation to pay although, the precise amounts are still to be determined by the City Assessor. A proper tracking mechanism would (1) List the project at the time the contract is entered into; (2) insert the calculated amount and due date when received from the Assessor and (3) credit the payment when received. In this manner, one would be able to identify a late payment even if the initial payment is not made in a timely manner.

Indeed, at one point it was conceded that the IDA Treasurer had no internal controls to determine whether PILOT payments were being made in a timely manner and in the correct amount. At page 31 of the transcript of the Treasurer's testimony the following exchange took place:

- Q. What procedure practice and procedure did you put into place in any given year to determine whether or not the PILOT payments were received?
- A. I haven't put any procedures in place. That was not my job.
- Q. You as the collector of PILOT payments, you did not feel that you were in any way responsible -
- A. That's not my responsibility as treasurer.
- Q. Whose responsibility do you view that to be?
- A. I don't know. I don't know.

This exchange suggests a surprising and seemingly cavalier attitude toward the monitoring of a project that in calendar year 2006 represented more than eight hundred thousand dollars in revenue to the agency. At a minimum, this exchange suggests that the by-laws of the IDA should be examined to determine and establish the duties of the various officers. Robert's Rules of Order, which is the standard default in the absence of express rules of an organization, identifies the Treasurer's duties as including (but, not limited to):

- Receiving and depositing revenues and payments and depositing same in the organization's bank account.
- Disbursing funds on behalf of the organization
- Keeping records that will allow a committee to audit the books at the end of the fiscal year
- Balancing and reconciling the bank account

In the absence of an express provision to the contrary in the organization's by-laws, it would appear that part of the Treasurer's duties in any organization is to establish internal controls to ensure that revenues are timely received and credited. When asked about tracking project status via a computer database, the Treasurer explained ( Tr., Page 95):

- Q. But, I guess it seems outstanding to me especially with the limited universe of PILOT agreements that we seem to have in front of us probably under twenty this information is so difficult to obtain. Can you explain why - - I mean why you can't just do an Excel program and do all properties on it if they're going to pay the taxes you put that, you know, that entry in there? I mean I don't understand why this is so complicated.
- A. Because I don't see the need to do that. I have the information that I need to conduct the IDA's business and that's basically taking those payments, putting them on a spreadsheet and making sure that these eight properties pay their PILOTS, and that's all I need to do.
- Q. Right. But the eight properties are - but you've subtracted out, I mean, when the PILOT agreements are entered into, would you not put that into the program and then after that make a notation that it's going to be paid pursuant to its regular tax rate?
- A. No.
- Q. Why would you not do that?
- A. Because I don't have a need to do that. I don't really need to do that.
- Q. So you're going to remember that up in your head?
- A. Most times I do.

The New York State Comptroller's office specifically requires the implementation of an effective monitoring system. With regard to the aforementioned supplemental schedules and tracking system, the Comptroller has stated:

All PILOTS, whether made by the IDA in connection with property owned by the IDA, or made by business or private developers directly to the taxing authorities, must be included in the supplemental schedule of the annual financial report. In order to accomplish this, each IDA should have an appropriate system in place to track PILOTS required to be made, and those PILOTS actually made, between businesses and taxing authorities. This system should also track PILOTS required to be made by the IDA itself.

Clearly, the maintenance of organizational financial transactions in the official's memory is not an adequate control. Such a scheme does not lend itself to audit requirements. Further, the absence of written, verifiable records generates opportunities for omissions, errors, fraud, waste and abuse.

### **A. The Agency is Exposed to Loss of Interest on Late Payments**

The fact that there is no control and logging of the initial due dates for PILOT payments exposes the Agency and City to lost interest payments. The PILOT agreements usually stipulate that late payments will incur interest charges. There is an initial late charge of 5% of the payment due and an additional charge of 1% per month until the payment is made. One needs to know the initial due date in order to properly calculate the interest on late payments.

The Treasurer assumes that if no payment comes in, the owner has “chosen” to remain on the tax rolls ( Tr., pp. 142, line 17) As explained later in Section III.(A), this is not always a valid assumption. Unless the default payment language is contained in the agreement, there is no automatic default to the tax amount. Even if there is a default to “a payment equal in amount to the taxes due”, there is no language in the agreement to place the property back on the tax rolls and terminate the PILOT.

### **B. PILOTs Are Required to Be Identified and Reported to New York State**

The Treasurer was not aware of the requirement to report PILOT projects to the State of New York. Testimony on the topic of reporting to the state follows ( Tr., pp. 97, line 6):

- Q. Does not the IDA have to report to the state what properties are under PILOT agreements?
- A. The IDA has to report to the state?
- Q. Yes
- A. What properties? The IDA does not have to identify the properties, to the best of my knowledge, to the state.

The Treasurer's stated understanding is in direct conflict with the express language of the controlling statute. (See, Section I.(A) above)[See, also, attached **Exhibit 1, pp. 16-20**] Most of the PILOT agreements submitted in evidence appeared to be straight-lease transactions and General Municipal Law §859(b) specifically provides, with regard to supplemental schedules:

**For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project. (Emphasis added)**

Clearly, there is an unequivocal requirement to report details of each lease transaction in the supplemental schedules of the audited annual report.

### C. Retention of Copies of Checks is Arbitrary

Record keeping of disbursements appears inconsistent. With regard to maintaining copies of received and disbursed checks, the Treasurer testified ( Tr., pp 128, line 15):

- Q. Do you make copies of checks that you receive as payments to the IDA?  
A. Sometimes I do.  
Q. But, not all the time?  
A. No  
Q. Would it be good accounting practice to obtain and keep copies of all checks received?  
A. Not necessarily so.  
Q. What about checks that you disburse from the IDA?  
A. What's your question?  
Q. To the various taxing agencies, do you keep copies of those checks?  
A. I may keep some copies.  
Q. But not all of them?  
A. No  
Q. Does your bank keep copies of them?  
A. I would think they do.

Again, this demonstrates an arbitrary approach to record keeping. If one were to challenge the amount or receipt of a particular payment, there may or may not be a copy of the actual check to verify the amount. In a contested situation or an in-depth audit, the Agency would be unable to completely verify the financial records.

### III. The PILOT Agreements Are Inconsistent

A review of the executed PILOT agreements reveals an inconsistency in the payment option language. For instance, **Section 4**, entitled **Payment Amounts**, in each of the Agreements provides an option for the project owner to make payments of real property taxes or payments in lieu of real property taxes. Section 4(b) PILOT Payment Election states that the owner "must elect during the following Tax Year to pay either (i) a payment-in-lieu-of-taxes equal amount per annum as set forth herein in subsections (c) and (d); or (ii) the full annual real property taxes that would normally apply if the Project was not an Agency project. . . . The [owner] shall make their election pursuant to this subsection on or prior to the 1st of May immediately preceding the applicable Tax Year, by notice in writing to the Agency and the City Assessor at the notice addresses set forth in this agreement. If no election is made by the required date, the election set forth in clause (ii) shall be deemed to have been made. . . ."

Some agreements contain default option language and others do not. The Agreements that do not contain the default option language leave open the question as to what the owner should be paying in the event he fails to submit his election prior to the 1st of May. The absence of an express default provision is an invitation for conflict and confusion. The fact that the default language appears in some and not others leads to the legal conclusion that the referenced language was intentionally omitted; thereby, negating the default.

**A. There is Confusion With Regard to PILOT Payments Versus Taxes**

It is not at all clear why some properties would be placed back on the tax rolls simply because the project owner chose to make a PILOT payment in an amount equal to the applicable assessed tax rate in any given year. The PILOT agreement does provide the project owner, on an annual basis, the option of paying either (i) the payment in lieu of taxes as calculated and identified on a schedule attached to the PILOT agreement or (ii) the full annual real property tax rate that would normally apply if it was not an Agency project. As indicated, this is an annual election and there is nothing (in most of the agreements) to preclude the owner from alternating his option each year. There is nothing in the agreement to suggest that the election of one option over the other automatically terminates the PILOT project. The only thing the election does is to fix the payment amount for a particular year. There does not appear to be any legal rationale for placing the property back on the tax rolls simply because the owner chose to make his PILOT payment in an amount equal to what his tax rate would normally have been for that year.

**IV. Lack of communications between the key participants in the administration process**

The administration of the IDA PILOT projects suffers from the lack of communications between the participants. Testimony at the hearing clearly demonstrates that the lack of communications contributed to confusion as to actual number of PILOT agreements, terms of the agreements and a lack of controls as to whether a piece of property should or should not be placed on or removed from the tax rolls. An example of this appears in the following excerpt from the testimony of the City Assessor (page 102):

Q. Okay. Let me get this straight. So you never removed this property from the tax rolls?

A. That is correct.

Q. And yet the assessed value, the amount that you told the comptroller to bill for this was approximately what the PILOT was?

A. Correct.

Q. So you were aware of this PILOT agreement?

A. Only through word of mouth. The developer informed me of this PILOT.

Q. When

A. When he went forward with this arrangement.

Q. Back in around 2001?

A. That is correct.

Q. And that was verbally?

A. That was verbally.

Q. Now, I mean, is this anyway to run the city? I'm not being facetious in terms of.

A. I agree with you. I'm not disputing what you're saying. I agree.

Q. I mean, will you agree with me that the assessment rolls of the city is absolutely critical - -

A. Absolutely

Q. Will you agree with me that changes in status of properties that are on an assessment roll are critical to the city?

A. Absolutely

- Q. That being said and you being a professional in this business, would not be one to have a paper trail for each and every property that's in this city?
- A. I agree, but you can only ask so many times. And when not receiving a response you have to find another means to do your job.
- Q. I didn't understand that. Explain that answer to me. You were in charge of the assessment office?
- A. That is correct.
- Q. Would you not set up some practice and procedure within your office to set forth what happens to each piece of property?
- A. Ms. Hottinger, to be honest with you, there was no communication of any word from the planning department, the IDA and my office. What we received from them was smatterings of information. We were the last people to know. And it was frustrating. I have a relationship with this developer because he is a reliable person that wants to do the right thing. They want to make sure that all their T's are crossed and their I's are dotted and their bills are paid. So he informed me what they were negotiating.

The above exchange demonstrates an absolute lack of (1) cooperation, (2) inter-departmental communication and (3) effective controls. This is fertile breeding ground for errors, omissions, waste, fraud and abuse. Other testimony throughout the hearing amplified, verified and/or otherwise confirmed the above-observation.

### **Conclusion**

Based upon the sworn testimony of the witnesses and the exhibits produced at the hearing and accepting the testimony as true, it can only be concluded that the Mount Vernon IDA PILOT program as currently administered is not in compliance with New York State law and is severely lacking in internal controls. The current program is subject to errors and omissions and presents fertile opportunity for waste, fraud and abuse.

### **Comment**

Some of the deficiencies revealed by the testimony of the witnesses are common to other IDAs operating in the State of New York. (This, however, does not excuse Mount Vernon's non-compliance) Indeed, in an audit of five different IDAs for the period January 1, 2003 to February 15, 2005, the New York State Comptroller's office found many of the issues identified in Mount Vernon's operation to exist in other locations. Specifically, the items that commonly created billing errors tended to be (1) unclear PILOT Agreement Terms, (2) Misinterpreting PILOT Agreement Terms, (3) Lack of Communication with Assessors and (4) Lack of Monitoring PILOT Bill Accuracy. Accordingly, in addition to the following recommendations which are based upon the foregoing findings of hearings conducted by the Mount Vernon City Council, this office has attached as **Exhibit 3**, the recommendations of the Office of the New York State Comptroller with regard to improving PILOT billing accuracy. These should be included in the recommendations listed below.

## **Recommendations**

1. Adhere to the express requirements of New York State General Municipal Law with regard to annual reports, contents thereof, audits and the delivery of a copy of the report to the governing body of the municipality (i.e., City Council) within the specified time period. (See attached sample forms from New York State Comptroller) As of the date of this report, the IDA's audited annual report for year ending 2007 is due to be delivered to City Counsel.
2. Pursuant to the new requirements of the "Public Authorities Accountability Act of 2005" the Agency should publish on the City web site documentation describing its mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section 87 of the public officers law.
3. Develop a written Document of Understanding between the entities involved in the approval and administration of PILOT projects. That document should outline the process and procedure for applying for and approving PILOT projects. Each entity's respective role and responsibilities should be identified. Requirements for reports should be identified.
4. Establish written procedures and controls for the receipt and recording of payments and disbursements of IDA funds. Establish separate line items to record and account for (1) PILOT payments, (2) administrative fees, (3) escrow payments and disbursements.
5. Record and log all documents pertaining to the respective PILOT projects.
6. Establish a database capable of tracking and monitoring each PILOT project commencing with its initial application. The database should log dates of application, approval or rejection, formal contract execution, adjustments to the contract, notice letters, payment due dates, payment receipt dates. The database should also contain fields for recording year-to-date payments, balances due and delinquency status. Access to the database should be shared by at least two persons so that no single individual's absence impairs the ability to retrieve information at any given time.
7. Establish internal security controls on the aforementioned database including scheduled data/system back-up and restoration.
8. Ensure consistent terms in the contract boilerplate, particularly as pertains to election of payment options and default payment election in the case of failure to notify the Agency within the prescribed time period. Based upon testimony in this case, the Treasurer assumes that failure to make the written election in a timely manner results in a default election to pay the normally established tax rate. This assumption is only valid for those agreements containing the appropriate language. As indicated above, the PILOT agreements submitted in this case are not consistent on this point and many are simply silent on the consequences of a failure to make the written election.

9. It is further recommended that a detailed operational and financial audit of the IDA and the Mount Vernon Urban Renewal Agency be conducted as soon as possible.
10. The Agency should ensure that the independent auditing firm selected for its annual audit is familiar with the New York State Comptroller's Accounting and Reporting Manual for Industrial Development Agencies. Within the past two years, the state comptroller's office has increased its audit program for local IDA's. There is an increased likelihood of audit exposure as a result of the enhanced program. The mere fact that a particular agency has not been audited or cited in the past is not a guarantee that "everything is working well."
11. The IDA, as well as City Council, should familiarize themselves with the recently enacted Public Accountability Act of 2005 (Chapter 766 of the Laws of 2005) A copy of a summary of the new legislation as it applies to IDA's is attached hereto as **Exhibit 4** (Industrial Development Agencies in New York State, pp. 16).

To the extent that any of the aforementioned recommendations have already been implemented; documented evidence or examples of same should be produced to the governing body (i.e., City Council)

Harry M. Stokes  
Inspector General