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Alert

Public Finance Practice Group

Authorities Budget Office Adopts Regulations Governing Industrial Development Agencies

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Effective December 5, 2018, the New York State Authorities Budget Office ("ABO") promulgated regulations entitled "Standard Application Form" and added them as Part 250.1 to Title 19 of the New York Codes, Rules and Regulations (the "New Regulations"). The ABO asserts that the New Regulations will increase the accountability of Industrial Development Agencies ("IDAs") and improve the efficiency and transparency of their operations.

The New Regulations clarify, and in some instances change, what is already required of IDAs under the New York General Municipal Law ("GML"). These changes and clarifications are highlighted below.

Section 875(7) of the GML currently requires IDAs to make freely available on its website copies of its resolutions and agreements appointing an agent or project operator, or otherwise related to any project it undertakes. The New Regulations specifically add a requirement that all completed applications be posted and clarify that completed project agreements (along with all attachments and relevant records regarding the terms and conditions under which financial assistance is to be provided), also be conspicuously posted on the IDAs website. In addition to documents, the New Regulations make clear that IDA policies, including the project approval and recapture policies, must be similarly posted.

The New Regulations also address the content of an IDA's uniform application which is codified in Section 859-a (4) of the GML. The GML currently provides for the application to be signed by either the CEO or a person authorized to bind the applicant, and further requires an applicant to project the number of full time equivalent jobs that will be created as well as the timeframe within which such jobs will be created. The New Regulations add language to require, not just that an individual authorized to bind the project applicant sign the application, but that each statement of the applicant in the application (pursuant to Section 859-a of the GML) be signed by such an individual; and further requires the applicant to project monthly timeframes for the creation of new jobs per year.

The New Regulations expand the requirement in GML Section 859-a (6)(b) to require a project owner, operator or occupant, in its annual certification, to provide an explanation in the event the salary and fringe benefits for categories of jobs outlined in the project application are no longer accurate.

Lastly, the New Regulations require IDAs to make available on their websites, the annual assessments required under Section 874(12) of the GML for each active project.

The codification of the New Regulations into Title 19 of the New York Codes, Rules and Regulations provides the ABO with additional enforcement authority over IDAs with respect to these provisions of the GML including the ability to publically censure authorities for non-compliance with any of these regulations.

To view the complete text of the New Regulations, you can visit the ABO website at <https://www.abo.ny.gov/>

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If we can provide you with additional insight and information regarding these regulations please contact::

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