THEAGENCY
BROOME COUNTY IDA / LDC

BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY

GOVERNANCE COMMITTEE MEETING
June 13, 2022 – 12:00 p.m.
The Agency Conference Room, 2nd Floor
FIVE South College Drive, Suite 201
Binghamton, NY 13905

AGENDA

1.	Call to Order	R. Bucci
2.	Accept the May 18, 2022 Governance Committee Meeting Transcript	R. Bucci
3.	Public Comment	R. Bucci
4.	Review/Discussion/Recommendation to Accept an Application from OCSH Binghamton Holdings, LLC and to Authorize a New York State and Local Sales and Use Tax Exemption in an Amount Not to Exceed $37,176.00, for a Term Not to Exceed Twelve Months, Consistent with the Policies of The Agency in Connection with the Construction, Renovation and Equipping of the Property and Building Located at 257 Washington Street, in the City of Binghamton, County of Broome and State of New York	S. Duncan
5.	Review/Discussion/Recommendation to Authorize the Board of Directors of The Agency Broome County IDA/LDC to Approve the Request to Close the ARC grant NY-6007 and Subsequent Amendments Totaling $1,727,472.79 Plus Net Program Income. In Addition, a Revised Revolving Loan Fund (RLF) Plan is Recommended by the Executive Director and Staff that will Follow the Access to Capital Projects Application and Operating Guidelines Updated on May 16, 2022. Resolved Further that the RLF Plan Shall Provide Guidance for the New RLF and is Directed to Assist Local Businesses and to Strengthen the Area's Investment Capital and Improve Economic Development. Further, that the RLF Plan Outlines the Purpose of the RLF, New ARC Reporting Requirements, and Flexibilities Permitted by ARC During the Life of the RLF	N. Abbadessa
6.	Review/Discussion/Recommendation to Authorize The Agency Broome County IDA Board of Directors and all its Committees to use Videoconferencing Technology to Participate in Public Meetings Under Extraordinary Circumstances, as Set Forth in Exhibit A, Attached Hereto	S. Duncan
7.	Adjournment	R. Bucci

BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Governance Committee Meeting

Held via Zoom, May 18, 2022, commencing at 11:30AM. Adjourned at 11:52AM.

[See attendees at end of transcript.]

Digitally recorded proceeding
Transcribed by: Elana Hulsey
Reporters Transcription Center
P.O. Box 903
Binghamton, NY 13902

MR. BUCCI: Good morning, we'll call the meeting to order. The first item on the agenda is the approval of the transcript from the March 16th Board meeting, and that has been sent out to all of our members of the Governance Committee. They had an opportunity to review it and make any modifications, so we'll accept that for the record.

The next item on the agenda is public comment. We will open the floor to anyone who wants to address the Governance Committee. They have five minutes. We just ask that you identify yourselves and give us your name and address. So, we'll open the floor at this time. Anyone who would like to address us?

Okay, seeing or hearing none, we'll close that section of the meeting, and we'll move on to our first agenda item, Review/Discussion/Recommendation to Authorize an Extension of the June 10, 2021, Sales and Use Tax Exemption Agreement granted to Kashou Enterprises, Inc., through and including May 19, 2023, and authorizing an increase thereof in the amount of $91,440.00 for a Total Sales and Use Tax Exemption not to exceed $331,440.00. Stacy…

MS. DUNCAN: Thank you, Chairman. So yes, we have for the Committee's consideration, a request for the extension of both time and dollar amount related to the sales tax exemption for Kashou Enterprises, Inc. We do have Bob Kashou here, and we are thrilled that the project, after a stream of unfortunate events, is continuing. And with the good weather, we hope you can catch up on your timeline there. But based on the letter in your packets, we are aware of the setback in the building, and so this has caused a delay in time.

So, the first request is for an extension for another year, till May 19, 2023, which we think makes a lot of sense. And then in addition, I'm sure some unexpected and unanticipated costs related to regrouping on the project, so an increase of $91,440.00. That amount does not require public hearing. It is below $100,000.00, which would require an additional public hearing. But with that, this would kind of give a reset for the time and allow the construction project to gain all the full benefit of the incentive.

MR. BUCCI: Okay. Are there any questions from any of the Committee members?

MS. DUNCAN: I will note also, we did just close on the PILOT agreement for the project as well.

MR. BUCCI: Is there a motion?

MR. PEDUTO: So moved, Jim.

MR. BUCCI: Is there a second?

MS. SACCO: Second.

MR. BUCCI: All in favor.

ALL: Aye.

MR. BUCCI: Motion is carried. The next item on the agenda is Review/Discussion/Recommendation to authorize The Agency to enter into Three (3) Year Term Contract(s) for Architectural, Engineering, Civil and Environmental Services. Stacey?

MS. DUNCAN: Yes. I will note a modification on this now. As you read that aloud, I realize so it's not just three because we are recommending that we select a number of firms above three, and I'll explain in a moment, but every year, every three years, we do, we issue an RFP for certain services for The Agency for the IDA and/or the LDC, one of which we have found is very beneficial is for architecture and engineering and design as well as a newer one that we've added, which is groups that can do sort of the overall feasibility planning and other studies for us.

So we have, we are recommending this year that we approve six contractors for vendor relationships, again these are three-year terms. Two of them I would qualify in that area of more of the feasibility planning and general economic development study. That is Elan and LaBella Associates. Elan, we do have an ongoing relationship with our site inventory analysis, and then in addition, more on the general engineering, architectural and engineering services, some great local firms: Shumaker, Chianis & Anderson, Delta, and Keystone & Associates.

Out of that group of six, we do have two WBEs, which we are happy to support. But again, really, especially I think with our increased activity in the years ahead on land development and doing a lot of due diligence on site development, which we expect to do, having a number of firms essentially that we can call upon to provide some quotes for us is very beneficial. And the purpose we select these vendors, the reason for doing these term contracts, is that rather than doing RFPs every time, we can just go to this group and request quotes rather than a full RFP process. So you had also requested a—

MR. BUCCI: What was the last one you had? Shumaker, Chianis, Delta…

MS. DUNCAN: Chianis & Anderson, Delta, and Keystone & Associates.

MR. BUCCI: So these, all these, all this architectural engineering, civil and environmental falls under these six, all those actions fall under these six firms can do all those?

MS. DUNCAN: Yes. We can go to them and again, rather than say we're going to issue an RFQ or RFP, we're just going to say, “Here's what we're trying to do. Please give us a quote.” It just moves the process.

MR. BUCCI: Okay.

MS. DUNCAN: I think it’s more expeditious for things. Especially from time to time, we do have things that are time sensitive. And then you had asked for, and I think was this, was this provided via email…

MR. BUCCI: Yes.

MS. DUNCAN: For our 2019 through 2021 engineering amounts by vendor, you'll see that the only, of the term contracts, Delta, we've been working with Delta on the structural analysis for the IBM Country Club, and that was in the amount of $2,357.00. Above that in the information you received, we have worked with Elan on a number of items. Those were actually separate grant funding. Those were separate and distinct RFPs as well. So, we did out break down the expenditures on those. But again, this just helps us move our process quickly by having these relationships and contracts in place.

MR. BUCCI: Okay, so then. And so the other one was how often do you do an RFP? We did, we do it every…

MS. DUNCAN: Three years.

MR. BUCCI: So are we in the final, when's the last time we did one? 20…

MS. DUNCAN: 2019.

MR. BUCCI: So we're in the final year, so we do another one next year?

MS. DUNCAN: Well, this would begin in 2022.

MS. ABBADESSA: So, we do one three years from 2022.

MR. BUCCI: We're starting this…?

MS. ABBADESSA: We're starting over.

MS. DUNCAN: Yes. This is a new three-year term, sorry.

MR. BUCCI: So we're doing a Request for Proposals now?

MS. DUNCAN: Yes. And so, we didn't send them electronically because as you can see the file sizes, but we do have…

MR. BUCCI: Okay. So we're doing a Request for Proposals now, so we're not approving anything yet?

MS. DUNCAN: No, we did the RFP. These are the ones we'd like you to approve.

MR. BUCCI: Okay. So we did the RFP this year?

MS. ABBADESSA: Right. We received 12…

MS. DUNCAN: Yes.

MR. BUCCI: Okay. This is what we received?

MS. DUNCAN: Yes.

MR. BUCCI: Okay. Very good.

MS. SACCO: Did we get any responses on the RFPs that were not looking to enter into contract? Or are these all of the vendors that we received a response from?

MS. DUNCAN: No, we received an additional six that we did not select. We received quite a few, which is. We've been talking a lot about site development, land development as one of our strategic priorities, so I think there's a lot of interest. So, we received twelve in total, and we're recommending six. I will say two of the six fall more into the category of doing economic development feasibility and planning studies, whereas the other four are straight architectural and engineering services directly, civil engineering, architectural, etc.

MS. SACCO: And since these are professional services and we have some ongoing projects, I'm assuming the reason and the rationale for recommending these six are their experience with the area, experience with the sites, experiences with… Can you delve into why you're recommending these six?

MS. DUNCAN: Yeah. I think based on the qualifications that we received, based on I think certainly the knowledge of community and of the area was one thing that weighed heavily in their favor, and just project work that they've done. We felt that these were all strong firms. We'd love to work with all 12, but that might be a little bit cumbersome. Elan was one. We do have ongoing work with them still. We'd like to continue our site analysis as we dive deeper into a phase two with our site inventory. Delta, we are continuing to work with them on IBM and doing review and analysis and preparing that for its next chapter. LaBella is new to the area as far as formal offices in the in the Broome County area. They are a strong group statewide, and we have a good relationship with them, so there may be an opportunity to engage with LaBella as well. And then of course to Shumaker, Chianis & Anderson, and Keystone are very well-established firms here in the community and we'd love to find an opportunity to work with.

MR. BUCCI: So I think I know from my experience a lot of these firms have specialties obviously. Some firms are better at doing certain things than other firms. So obviously that plays into why you pick them.

MS. DUNCAN: Yeah.

MR. BUCCI: Like environmental, some may be very strong in environmental, and some of them don't even go that direction.

MS. DUNCAN: Right. Yeah, I’d say Delta and Keystone are your large MEP or broader. Chianis is certainly more specialized in architecture and engineering, or architecture I should say, should we find the need for that. We don't do as much on the straight architecture side, but you don't know what might come up. And Shumaker is very strong in a lot of hydro, hydrology, land use, engineer, civil engineering.

MR. BUCCI: So obviously when a project comes up, depending on what the need is, that's how you determine who you're going to pick?

MS. DUNCAN: Yes, and often I know when it goes over our procurement level, we would seek out three quotes, and so having at least a minimum of three that we can call upon to provide an estimate or quote on a specific project or a specific task, we have them already built in. We may not need all of them, but again, if it's more of civil engineering, Shumaker, Delta, Keystone, we would probably go to them and seek quotes, and then reach that minimum of three that we strive to have.

MR. BUCCI: What's our threshold that you would, current threshold that you would have to seek quotes above? What is it right now?

MS. DUNCAN: It is, on professional services, it's $5,000.00, and we would probably do the same, anything above $5,000.00. Which is low but it doesn't hurt…

MR. BUCCI: So over $5,000.00 you would then put it out, you would get quotes?

MS. DUNCAN: Seek quotes, yeah. For sure.

MR. BUCCI: Okay. Are there any additional questions?

MR. PEDUTO: I don't have them but ______ have none.

MR. BUCCI: Just slip them under the table and ask me. Okay, I'll entertain a motion.

MS. DUNCAN: With that, do we need to take this straight to the-

MR. BUCCI: Well, we don’t have a quorum here. We don’t have a quorum to consider it, so even if we voted—

MS. DUNCAN: We’ll just take it to the Board for discussion.

MR. BUCCI: Yeah. We’ll just take it to the Board. All right, Review/Discussion/Recommendation Regarding an Amendment to the Open Meetings Law.

MS. DUNCAN: Yeah. This was one we wanted to bring to your attention as an organization subject to the Open Meetings Law. As you know since the COVID pandemic, we've been working under essentially just an emergency order through New York State, through the Governor's Office, to do meetings initially straight remote, and now we're doing a hybrid, but on April 9th of this year, Governor Hochul signed Chapter 56 of the Laws of 2022 relating to ELFA, Part WW, in the New York State Budget. Included in this bill was an amendment to the Open Meetings Law, or OML as you may hear it referred to, which would make permanent the expanded use of video conferencing by public bodies to conduct open meetings under extraordinary circumstances regardless of the declaration of emergency until July 1 of 2024.

So, what that means, and this is why we wanted to have this discussion, is of course with all due respect to the State, there's always some nuances here. A few key points, each public body that wishes to allow for remote attendance must adopt a local law or a resolution, joint resolution or a resolution authorizing remote attendance. So that's why we bring this to your attention today. They must also establish written procedures on what they determine to be extraordinary circumstances. Any member who participates at a physical location that is open to in-person physical attendance by the public - which we are - and which location has been included in the meeting notice may count toward a quorum.

A member who is participating from a remote location may not be counted toward a quorum of the public body, but can still participate and vote if there is a quorum of members at the physical location. Okay, everybody got that? Okay. Meaning for us, we're not currently at nine full Board members, but we would need a minimum for our quorum purposes of five Board members to be physically present in the boardroom, in the meeting location, to make a quorum for the remote Board member’s vote to count. We would need three Committee members physically in the boardroom to make a quorum for the remote Board member’s vote to count.

Taking all that in, I'll take any questions for clarification if anybody needs it.

MR. PEDUTO: But it only, so, because I read it and then you re-read it, it only applies if there's extraordinary circumstances?

MS. DUNCAN: We would define, yeah. The Board would define.

MR. PEDUTO: Presumably we wouldn’t define extraordinary circumstances to be a typical board meeting?

MS. DUNCAN: Yes.

MS. ABBADESSA: You would define the circumstances why you couldn’t attend the meeting. If you had car trouble, if you had a family emergency, you have to kind of spell it out as to what constitutes that.

MS. DUNCAN: Essentially, right, essentially. In our situation, being in a state of public health concern/crisis, whichever, would there be a reason just to offer a remote attendance as a means of conducting business for the organization?

MR. BUCCI: This is until when?

MS. DUNCAN: July of 2024, and the reason why is we do you have to formally adopt a resolution, we can't just, because the executive orders I believe are done, so we can no longer, it's either we're all in in-person and that's our, or we adopt this resolution that says under these extraordinary circumstances, we will allow for remote.

MR. BUCCI: So, people can still participate remotely right now, till when?

MS. DUNCAN: This month. She's been doing it month to month.

MS. ABBADESSA: She's been extending it monthly.

MR. BUCCI: So right now, we don’t know. She may extend it again?

MS. ABBADESSA: She could possibly.

MR. BUCCI: Well now that it’s spiking a little bit, she may.

MS. DUNCAN: And they have been extended month to month to month. It gives us some liberty to manage the process outside of an emergency order, that we can say yes, you can be remote. We can conduct remotely. However, these are the circumstances in which we would do that, and understanding that we still need to have a quorum in person for the person who is virtual’s vote to count. So, with all that.

MR. BUCCI: Well, my suggestion would be that maybe your team could just identify what you think are extraordinary circumstances, and we'll vote on it. I’m thinking sickness is one. If someone like Cheryl doesn’t feel good right now, I think that's a legitimate reason, but she can participate. Someone who's sick or ill-

MR. PEDUTO: Any FMLA matter, where you've got family.

MR. BUCCI: Well, maybe you guys could just make a list.

MR. PEDUTO: And vacation.

MR. BUCCI: Would vacation count or no? Not as extraordinary?

MS. DUNCAN: I don't know if it would be extraordinary.

MR. BUCCI: But sickness? What about if you're, not that we go through it now, but let's say what happens if someone has a work-related issue that pulls them out of town?

MS. DUNCAN: I would not consider that to be extraordinary. The meeting dates are set in advance. I mean, I guess that would be for you guys to decide.

MR. BUCCI: Yeah. You guys maybe come up with a list and then we could…

MS. DUNCAN: Yeah. We will, okay.

MR. BUCCI: A person comes up sick, and family like a family emergency, sickness…

MS. DUNCAN: FMLA, certainly, anything that would be considered…

MR. PEDUTO: As long as you don’t need a doctor’s note.

MS. DUNCAN: Yes, so we did because it does require resolution and we do know, especially with COVID numbers fluctuating, it might make sense to have a formal resolution of some kind, but we wanted to put it to your attention before we continued.

MR. CROCKER: Was there something in there about transcription versus notes?

MS. DUNCAN: We can go back to meeting minutes, but recordings must be transcribed upon request. Everything is being transcribed currently.

MR. BUCCI: So, it's being recorded, and you have a firm transcribing it?

MS. DUNCAN: Correct.

MR. BUCCI: Is that costly?

MS. DUNCAN: This is the first time we're doing it.

MS. HORNBECK: We've been transcribing since I think January.

MS. DUNCAN: Yeah. Carrie was doing it, but it was very time consuming.

MR. BUCCI: You were actually transcribing it?

MS. HORNBECK: I was doing all of them until…

MR. BUCCI: Oh, you were doing it?

MS. DUNCAN: Yeah, and it was a major process.

MS. HORNBECK: Especially once when we had eight meetings.

MS. DUNCAN: So, I suggested we look at hiring a firm. So, what they're saying is we can go back to our traditional meeting minutes. However, in advance, we would need to know if a transcription was requested because we would have to work with them.

MR. BUCCI: Right.

MR. COCKER: It’s just easier to review minutes than it is to transcribe, much easier.

MS. DUNCAN: Absolutely.

MR. COCKER: Much easier.

MR. BUCCI: Well you tape the meetings, right? Or no?

MS. DUNCAN: Yeah.

MR. BUCCI: So, if somebody wanted a transcript, how long do you hold that for though.

MS. DUNCAN: Five years.

MR. BUCCI: You hold the tapes for five years?

MS. DUNCAN: Yeah. We have to by law.

MR. BUCCI: If somebody wanted a transcript, then they could request it?

MS. HORNBECK: Yeah. Everything's on the website.

MS. DUNCAN: But if somebody, yes.

MR. BUCCI: But if we went back to meeting minutes and somebody said, "But I want a full transcript of the meeting," we could produce that?

MS. DUNCAN: We could transcribe that based on the recording, yeah. Staff and I will come up with some recommendations for what we would consider extraordinary circumstances, bring those back, so I don't know if you want a recommendation, guess we wouldn't take any action this month.

MR. BUCCI: We won't take any action now. We can just say to the full Board this is what was suggested and come back maybe the next meeting.

MS. SACCO: Stacey, just as a way of background, the Committee on Open Government has a draft policy out there that you may want to take a look at.

MS. DUNCAN: We will. Thank you for that, Cheryl. I don't think we have that.

MS. SACCO: You're welcome.

MR. BUCCI: Do we need to go to into Executive Session?

MS. DUNCAN: I do not have any items.

MR. BUCCI: All right. So, at this point, I think that concludes our agenda items, so I'll entertain a motion to adjourn.

[The meeting was adjourned on a motion by Mr. Peduto, seconded by Ms. Sacco, at 11:52AM.]

[Attendees: Rich Bucci, Jim Peduto, Cheryl Sacco, Dan Crocker, Stacey Duncan, Natalie Abbadessa, Carrie Hornbeck, Brendan O'Bryan, Theresa Ryan, Amy Williamson, Joe Meagher, Bob Kashou, Mike Tanzini, Linda Jackson]

C E R T I F I C A T E

I, Elana Hulsey, certify that the foregoing transcript of the Broome County Industrial Development Agency Governance Committee on May 18, 2022, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature: ______________________

Date: May 20, 2022

THE AGENCY
BROOME COUNTY **IDA / LDC**

SMALL BUSINESS INCENTIVE PROGRAM APPLICATION

The Small Business Incentive Program can provide eligible applicants the following: an eight percent (8%) NYS sales tax exemption on all construction materials, machinery & equipment and FF&E.

Applicants seeking assistance must complete this application and provide additional documentation if required. A **non-refundable** application fee of $250.00 must be included with this application. Make check payable to The Agency Broome County IDA.

The Applicant requesting a sales tax exemption from the Agency/IDA must include in the application a realistic estimate of the value of the savings anticipated to be received. As per NYS 2013 Budget Law and the regulations expected to be enacted thereunder are expected to require that the Agency/IDA recapture any benefit that exceeds the amount listed in the application.

Please answer all questions. Use "None" or "Not Applicable" where necessary.

APPLICANT

Name OCSH Binghamton Holdings, LLC
Address 257 Washington Street
City/State/Zip Binghamton, NY 13901
Tax ID No. 26-3767852
Contact Name Kevin Findley
Title Manager/Member
Telephone (607) 644-7332
E-Mail kevin@ocsh.biz

Owners of 20% or more of Applicant Company

Name	%	Corporate Title
*CFLP	75	Member
Kevin Findley	25	Member

Costa Family Limited Partnership

Benefit Requested

- [x] Sales Tax Exemption

Description of project (check all that apply)

- [x] New Construction
- [ ] Existing Facility
  - [ ] Acquisition
  - [ ] Expansion
  - [x] Renovation/Modernization
- [ ] Acquisition of machinery/equipment
- [ ] Other (specify) ______

GENERAL DESCRIPTION OF THE PROJECT

(Attached additional sheets as necessary)

1. Convert Existing Large Apartments into 1 Bedroom Units and Studio Apartments
2. Construct 5 New Studio Apartments in Lower Level
3. Construct a Community Room
4. Install Heat Pumps in the Renovated Apartments and New Studios
5. Modernize Control Access System
6. Install new roof, doors on south side of building and replace windows that are older than 6 years

TAX MAP ID NUMBER: 160.33-1-7

PROJECT TIMELINE

7/1/2022
Start Date

6/30/2023
End Date

257 Washington Street, Binghamton
Project Address

Contractor(s) *please refer to required Local Labor Policy

State Environmental Quality Review (SEQR) Act Compliance

The Agency, in granting assistance to the Applicant, is required to comply with the New York State Environmental Quality Review Act (SEQR). This is applicable to projects that require the state or local municipality to issue a discretionary permit, license or other type of Approval for that project.

Does the proposed project require discretionary permit, license or other type of approval by the state or local municipality?

☐ YES – Include a copy of any SEQR or other documents related to this project including Environmental Assessment Form, Final Determination, Local Municipality Negative Declaration.

☒ NO

LOCAL LABOR POLICY

It is the goal of the The Agency to maximize the use of local labor for each project that receives benefits from The Agency. This policy applies to general contractors, subcontractors, trade professionals, and their employees. The Agency's Local Labor Area consists of the following New York State counties: Broome, Chemung, Chenango, Cortland, Delaware, Otsego, Schuyler, Steuben, Tioga and Tompkins.

APPLICANT PROJECT COSTS

A. Estimate the costs necessary for the construction, acquisition, rehabilitation, improvement and/or equipping of the project by the APPLICANT.

Building Construction or Renovation

a. MATERIALS — a. $225000

b. LABOR — b. $202200

Site Work

c. MATERIALS — c. $______

d. LABOR — d. $______

e. Non-Manufacturing Equipment — e. $121200

f. Furniture and Fixtures — f. $118500

g. LAND and/or BUILDING Purchase — g. $______

h. Soft Costs (Legal, Architect, Engineering) — h. $______

Other (specify) i. Architect — i. $35000

j. Interest — j. $51660

k. Permit — k. $3000

TOTAL PROJECT COSTS $756560

B. Sources of Funds for Project Costs:

a. Bank Financing & Leasing — a. $618000 Bank $574,000 Leasing $44,000

b. Public Sources — b. $0

Identify each state and federal grant/credit

______ $______

______ $______

______ $______

______ $______

c. Equity $138560

TOTAL SOURCES $756560

C. Has the applicant made any arrangements for the financing of this project?

☒ Yes ☐ No

If so, please specify bank, underwriter, etc.

Pathfinder Bank
3775 State Route 31
Liver Pool, NY 13090

VALUE OF INCENTIVES

A. Sales Tax Exemption Benefit

Estimated value of goods that will be exempt from New York State and local sales tax (materials, non-manufacturing equipment, furniture and fixtures - **line a,c,e,f from Project Costs**)	$ 464,700.00
Estimated value of New York State and local sales tax exemption (8% of value of eligible goods)	$ 37,176.00
Estimated duration of sales tax exemption (The sales tax letter shall be valid for a period of twelve (12) months.	12 M

PROJECTED EMPLOYMENT

Will this investment result in the creation of new jobs? If so, how many? 3.00

Current number of full time employees: 1.00

Estimated annual salary range of jobs to be created:

Annual Salary range from: 41,600 to 57,200

Estimated annual salary range of current jobs:

Annual Salary range from: 36,400 to 36,400

Upon approval of this application, the business agrees to provide FTE and all construction job information, along with its NYS 45 in all years that a sales tax benefit is claimed.

APPLICATION & ADMINISTRATIVE FEES

A. Application Fee:

A non-refundable application fee of $250.00 shall be charged to each applicant and accompany the completed application. $ 250.00

B. Administrative Fee:

A non-refundable administrative fee is due and payable prior to the issuance of a Sales Tax Letter. The administrative fee is based on the size and scope of the project, and is determined on a case by case basis. $ 500.00

TOTAL TAX EXEMPTION FEES $ 750.00

This Application, including without limitation, information regarding the amount of New York State and local sales and use tax exemption benefits, is true, accurate and complete.

The Agency reserves the right to terminate, modify, or recapture Agency benefits if :

(i) an applicant or its sub-agency (if any) authorized to make purchases for the benefit of the project is not entitled to the sales and use tax exemption benefits;

(ii) sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the applicant or its sub-agents;

(iii) sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the project;

(iv) the applicant has made material, false, or misleading statements in its application for financial assistance;

(v) the applicant has committed a material violation of the terms and conditions of a Project Agreement.

(vi) As of the date of the Application this project is in substantial compliance with all provisions of GML Article 18-A, including but not limited to, the provisions of GML Section 859-a and GML Section 862(1) (the anti-raid provision) and if the project involves the removal or abandonment of a facility or plant within the state, notification by the IDA to the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located.

APPLICANT COMPANY

OCSH Binghamton Holdings, LLC

[signature] 6/6/2022

Signature , Title Date

Sworn to before me this

6th day of June, 2022

[signature]

(Notary Public)

ALYN L. GUSEFSKI
NOTARY PUBLIC, STATE OF NEW YORK
No. 01GU6089810
Qualified in Broome County
Commission Expires March 31, 2023

LABOR POLICY

Local General Contractor, Subcontractor, Trades and Labor Policy

It is the goal of the The Agency/**IDA** to maximize the use of local labor for each project that receives benefits from the Agency/**IDA**. This policy applies to general contractors, subcontractors, trade professionals, and their employees. The Agency/**IDA**'s Local Labor Area consists of the following New York State counties: Broome, Chemung, Chenango, Cortland, Delaware, Otsego, Schuyler, Steuben, Tioga and Tompkins.

Every applicant is obligated to provide written proof and data (see attached ... forms) to the Agency/**IDA** as to the physical location of all the contractors who worked on the project.

The Agency/**IDA** will review the data provided and determine, on a case-by-case basis and in a fully-transparent manner, whether the Applicant has substantially conformed to the policy.

An Applicant **will not be deficient** if the proposed project requires specifically skilled labor that is unavailable in the Local Labor Area.

An Applicant **will not be deficient** if the proposed project utilizes parts and supplies assembled elsewhere because no such assembly is available in the Local Labor Area.

An Applicant **will be held non-compliant** with the Labor Policy if it imports labor from outside the Local Labor Area when equal labor that is ready, willing, cost-competitive, etc. resides in the Local Labor Area.

The Agency/IDA may determine on a case-by-case basis to waive any portion of this policy for a project or a portion of a project where consideration of warranty issues, necessity of specialized skills, significant cost differentials between local and non-local services, documented lack of workers meeting the Local Labor Requirement or if other compelling circumstances exist.

In consideration of the extension of financial assistance by the Agency/**IDA** OCSH Binghamton Holdings, LLC (the Applicant) understands the Local Labor Policy and agrees to submit either or both a Local Labor Utilization Report or a Non Local Labor Utilization Report at the time that construction ends on the project to the Agency.

The Applicant understands an Agency/IDA tax-exempt certificate is valid for one year from the effective date of the project inducement. If an Applicant wishes to request an extension, a letter must be sent 30 days prior to the end date to the Executive Director, on company letterhead, explaining the necessity for the extension.

The Applicant further understands any request for a waiver to this policy must be submitted in writing and approved by the Agency/**IDA** before a tax-exempt certificate is issued or extended.

The Applicant further understands that if the required forms are not submitted to the Agency/**IDA**, the Agency/**IDA** shall have the authority to immediately terminate any and all Financial Assistance being provided to the Project.

I agree to the conditions of this agreement and certify all information provided regarding the construction and employment activities for the Project as of June 6, 2022 (Submission date).

APPLICANT: OCSH Binghamton Holdings, LCL

REPRESENTATIVE FOR CONTRACT BIDS/AWARDS: Kevin Findley

ADDRESS: 257 Washington Street

CITY: Binghamton **STATE:** NY **ZIP:** 13901 **PHONE:** 607-821-1600

EMAIL: info@ocsh.biz

PROJECT ADDRESS: 257 Washington Street, Binghamton NY 13901

AUTHORIZED REPRESENTATIVE: Kevin Findley **TITLE:** Manager

SIGNATURE: Kevin Findley

Sworn to before me this

6th day of June, 2022

Alyn L. Gusefski
(Notary Public)

ALYN L. GUSEFSKI
NOTARY PUBLIC, STATE OF NEW YORK
No. 01GU6089810
Qualified in Broome County
Commission Expires March 31, 20~~22~~ 23

The following organizations must be solicited in writing for the purpose of meeting the requirements of this Agreement:
*****Documentation of solicitation MUST be provided to the Agency.***

The Builders Exchange of the Southern Tier, Inc.
15 Belden Street
Binghamton, NY 13903
brad@bxstier.com
(607) 771-7000

Binghamton/Oneonta Building Trades Council
11 Griswold Street
Binghamton, NY 13904
raikens@iuoe158.org
(607) 723-9593

(877) 784-9556
Tompkins-Cortland Building Trades Council
622 West State Street
Ithaca, NY 14850
tbrueribew241@gmail.com
(607) 272-3122

Southern Tier Building Trades Council
1200 Clemens Center Parkway
Elmira, NY 14901
ibew139ba@aol.com
(607) 732-1237

Dodge Reports
http://construction.com/dodge/submit-project.asp
830 Third Ave., 6th Floor
New York, NY 10022
support@construction.com

Building Trades
Katie Fairbrother, Secretary
kfairbrother@ualocal112.org
607-723-9593

LOCAL LABOR UTILIZATION REPORT

To be completed for all contractors residing within the Broome County IDA Local Labor Area

APPLICANT: OCSH Binghamton Holdings, LLC

PROJECT ADDRESS: 257 Washington St. CITY: Binghamton STATE: NY ZIP: 13904

EMAIL: info@ochs.biz PHONE: 607-821-1600

GENERAL CONTRACTOR/CONSTRUCTION MANAGER: McGill Balfe & Associates, LLC

CONTACT: Kevin Findley

ADDRESS: 257 Washington St CITY: Binghamton STATE: NY ZIP: 13901

EMAIL: mcgill.balfe@gmail.com PHONE: 607-821-1600

ITEM	CONTRACT/SUB	ADDRESS	EMAIL	PHONE	AMOUNT
Site/Demo					
Foundation/Footings					
Building					
Masonry					
Metals					
Wood/Casework					
Thermal/Moisture					
Doors, Windows & Glazing					
Finishes					
Electrical					
HVAC					
Plumbing					
Specialties					
M& E					
FF & E					
Utilities					
Paving/Landscaping					

CHECK IF CONSTRUCTION IS COMPLETE ☐

CHECK IF THIS IS YOUR FINAL REPORT ☐

I CERTIFY THAT THIS IS AN ACCURATE ACCOUNTING OF THE CONTRACTORS THAT ARE WORKING AT THE PROJECT SITE.

Company Representative   Date

NON LOCAL LABOR UTILIZATION REPORT

To be completed for all contractors not residing within the Broome County IDA Local Labor Area

APPLICANT:

PROJECT ADDRESS: CITY: STATE: ZIP:

EMAIL: PHONE:

GENERAL CONTRACTOR/CONSTRUCTION MANAGER:

CONTACT:

ADDRESS: CITY: STATE: ZIP:

EMAIL: PHONE:

ITEM	CONTRACT/SUB	ADDRESS	EMAIL	PHONE	AMOUNT
Site/Demo					
Foundation/Footings					
Building					
Masonry					
Metals					
Wood/Casework					
Thermal/Moisture					
Doors, Windows & Glazing					
Finishes					
Electrical					
HVAC					
Plumbing					
Specialties					
M& E					
FF & E					
Utilities					
Paving/Landscaping					

CHECK IF CONSTRUCTION IS COMPLETE ☐

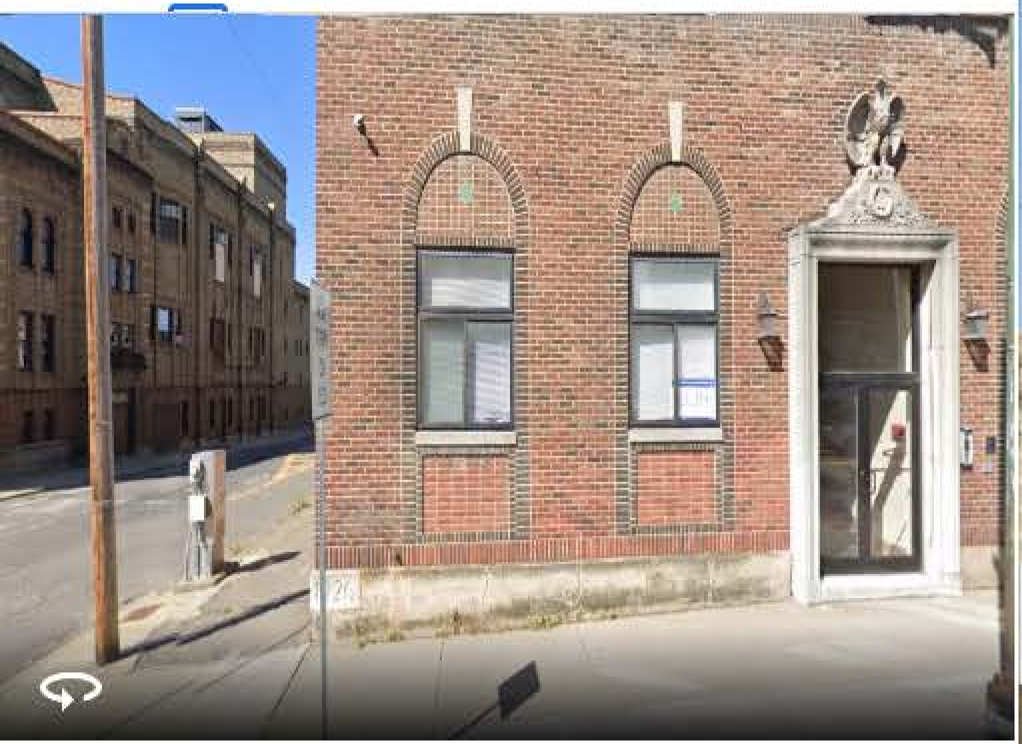
CHECK IF THIS IS YOUR FINAL REPORT ☐

I CERTIFY THAT THIS IS AN ACCURATE ACCOUNTING OF THE CONTRACTORS THAT ARE WORKING AT THE PROJECT SITE.

Company Representative Date

257 Washington St

All   Street View & 360°



Appalachian Regional Commission

Access to Capital Projects Application and Operating Guidelines

Adopted October 5, 2021

Overview

A primary Appalachian Regional Commission goal is to invest in entrepreneurial and economic development strategies that strengthen Appalachia's economy. Initiatives include expanding entrepreneurial ecosystems and support for start-ups and existing businesses, enhancing the competitiveness of the Region's manufacturers.

ARC seeks to expand the Region's entrepreneurial ecosystems by promoting greater access to capital. Accordingly, ARC has historically provided grants to support a range of economic development organizations providing debt and equity. These entities have a variety of structures such as local development districts, non-profits focused on economic development, Community Development Financial Institutions (CDFI), and New Market Tax Credit (NMTC) Program Community Development Entities (CDE) funds.

These guidelines provide Access to Capital (ATC) grantees with specific guidance about eligibility in applying; eligibility of borrowers; eligible and ineligible uses of grant funds; conflicts of interest; application requirements; post-award management and monitoring; audits; and consequences of non-compliance. Each potential ATC applicant should read this document carefully before submitting an application.

Grantees currently operating under the *ARC Business Development Revolving Loan Fund Grant Guidelines* (approved April 7, 2020) may continue to follow those guidelines. A written request must be submitted and approved by the Appalachian Regional Commission. As of October 5, 2021, all other ATC grantees must follow guidelines outlined in this document. *Access to Capital Projects Application and Operating Guidelines* (ATC Guidelines). The ATC Guidelines may be amended from time to time.

Applicability

These guidelines apply to grantees and applicants who use or may use funding to capitalize debt and equity investment products. These guidelines do not apply to grants for operating expenses. For more guidance that applies to non-ATC grants, please go to www.arc.gov.

Eligible Applicants

Only non-federal entities located in or serving the Appalachian Region are eligible to receive ATC grants from ARC. Applicants can be state and local governmental entities, non-profit organizations, or non-profit subsidiaries of a for-profit organization. Applicants must have the legal authority to receive ARC support and to make loans and equity investments.

Required Grantee Capacity

Grantees must demonstrate and meet the following criteria:

- Each grantee must have the organizational capacity in credit and/or equity investment analysis, program and policy development, finance, law, marketing, loan and/or equity investment structuring and packaging, and loan and/or equity investment processing and servicing.
- Grantees must have sufficient resources to cover the administrative costs of operations.

- ARC requires that Access to Capital projects be administered following a fund plan developed by the grant applicant and approved by the Commission. An applicant's plan defines specific objectives and operating procedures, including standards and selection criteria for loans in the portfolio.
- Grantees must have a solid and effective loan and/or equity investment review committee. A significant number of the review committee members must have had lending or equity experience depending on the grantee's financing activities. A list of the review committee members must be included in the grantee's fund plan, which requires ARC approval. Additionally, a majority must currently represent the private sector as opposed to the government. No loan or equity investment may be made without the favorable recommendation of the review committee; a majority of the members must participate in any meeting where an action is taken. The composition must be approved by ARC if different from that noted above.
- As lending and/or equity organizations, grantees must recognize and comply with their obligations under federal and state law, including but not limited to the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691-1691f, as implemented by Federal Reserve Board Regulation B, and the Internal Revenue Code requirements for lender cancellation of debt (Form 1099C, Cancellation of Debt).

Eligible Borrowers and Equity Investment Recipients

- Loans and equity investments may be made in private, for-profit firms that do business in the Appalachian Region. The borrowers/investment recipients may be located outside the Region, but the activity financed and its benefits must be within the Region at all times.
- Additionally, non-profits or local governments that are developing or operating community facilities or social enterprises are eligible for loans but not equity investments.
- Firms must include majority US citizens or legal resident ownership.
- The eligible borrowers and equity investment recipients or any of their owners cannot have a delinquent debt to the federal government or be on a suspended or debarred list.

Eligible Loan and Equity Investment Uses

Including, but not limited to:

- Working capital, including financing of inventory
- Receivables financing
- Product development and testing
- Operating support for professional services, marketing activities, employee training, and other purposes to help portfolio firms
- Machinery, equipment, and other fixed asset acquisition, including transportation/delivery and installation costs
- Construction, alteration, modification, repair, and renovation of existing or new facilities
- Refinancing existing debt
- Land acquisition that is an integral part of a project
- Acquisition of an existing business

Ineligible Loans and Equity Investments Uses

- Loans or equity investments to themselves or a subsidiary. Subsidiaries are organizations under common control through common officers, directors, members, or employees.
- Land acquisition, except as noted above.
- Loans or equity investments in ARC designated Attainment Counties. ARC funds or the funds used as a match cannot be used for loans and equity investments in an attainment county. A list of ARC counties and their economic status, updated every fiscal year, can be found at www.arc.gov.
- Loans that assist the relocation of businesses from other labor areas are prohibited by law (40 USC 14524(b)).
- Loans or equity investments that provide the mandatory equity contribution required of borrowers for other federal loan programs.
- Loans or equity investments that refinance existing debt solely to reduce the risk to existing lenders.

Responsibility for Equity Investment and Lending Decisions

The responsibility for approving loans and investments and setting terms and conditions consistent with these guidelines resides entirely with the grantee.
Grantees must follow the loan and/or investment guidelines that they submit with their final grant applications. The grantee's governing board must approve the guidelines before application submittal. If any material amendments are made at any point, the grantee is required to submit the amended guidelines for ARC approval.

Depositing Funds in Grantee's Account

Grantees must place funds advanced from ARC, or returned to the fund, in interest earning accounts pending the closing of new investments and/or loans. Interest earning accounts must be Federally insured deposits, short term certificates of deposit that are covered by deposit insurance, or other secure instruments.

Please see the Audit section for more information on required financial control systems.

Federal Reversionary Interest

It is essential to note that ARC funds used for loans and equity investments will always be considered federal funds and therefore bound by requirements imposed by the Commission and the U.S. government. While subject to change, the grant agreement will typically have the following language reflecting this federal requirement:

> The Federal Government, through the Appalachian Regional Commission, shall retain a reversionary interest in all loans made, or equity shares purchased, with ARC grant funds under this grant agreement. The extent of the Government's reversionary interest in a particular loan or equity share shall be equal to the percentage of such loan or share made or purchased with ARC grant funds. Annually, both during the period of performance and thereafter for the life of the loan fund or equity share fund supported by this grant, Grantee shall submit to ARC a report on the value and status of all funds, loans,

and shares in which the Federal Government retains an interest through the Appalachian Regional Commission.

Interest Rates

Grantees may make loans to eligible borrowers at interest rates and under conditions determined by the grantee to be most appropriate in achieving the goals of the loan and/or investment fund. The minimum positive interest rate an ATC grantee can charge is four percentage points below the current U.S. Treasury rate for issues of similar size and maturity, or the maximum interest rate allowed under state law, whichever is lower. The U.S. Treasury rate is found as a graph titled "Treasury Yield Curve," which is calculated daily by the US Treasury and can be found on its website https://www.treasury.gov. Percentage rates below this would have to be requested and approved by the Federal Co-Chair and would only be granted if extraordinary economic difficulties can be demonstrated, which would be provided on a temporary basis.

Conflicts of Interest

ARC Code Chapter 8, *Grant Administration*, applies to all ARC projects. Section 8.3–*Conflict of Interest*—governs requirements relating to prohibited conflicts of interest:

a. No official nor employee of an ARC grantee nor subgrantee shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or through other actions in any proceeding, application, request for a ruling or other determination, contract award, cooperative agreement, claim, controversy, or other particular matter in which grant funds (including program income or other funds generated by ARC-funded activities) are used; where to his knowledge, he or his immediate family, partners, organization (other than a public agency) in which he is serving as an officer, director, trustee, partner, or employee; or any person or organization with whom he is negotiating, or has any arrangement concerning prospective employment; has a financial interest or less than arms-length involvement.
b. In the use of ARC grant funds, officials or employees of grantees or subgrantees shall avoid any action that might result in, or create the appearance of:
    a. using official position for private gain;
    b. giving preferential treatment to any person;
    c. losing complete independence or impartiality;
    d. making an official decision outside official channels; or
    e. affecting adversely the confidence of the public in the integrity of the government or the program.
c. Pursuant to federal regulations at 2 CFR 200.318(c), each grantee and subgrantee must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees who select, award, and administer contracts. Any potential conflict of interest must be disclosed to ARC.
d. In addition, an Interested Party shall not receive any direct or indirect financial or personal benefits in connection with any ATC grant or loan; and shall not lend funds to or invest equity in an Interested Party. Interested Party means any officer, employee or member of the board of directors or other governing board of the award recipient, including any other parties that advise, approve, recommend or otherwise participate in the business decisions of the recipient, such as agents, advisors,

consultants, attorneys, accountants or shareholders. An Interested Party also includes the Interested Party's family and other persons directly connected to the Interested Party by law or through a business arrangement.

e. Former members of the board or governing body, former officials, employees, or members of the staff, and former members of the loan review committee are barred from receiving ARC RLF loan assistance for one year from the date of termination of their service. Loan activities that directly or indirectly benefit these individuals or people related to them by blood, marriage, law or business arrangement are prohibited for a period of one year from the date of termination of service of such related person.

Match and Private Capital Raise Requirements

ARC grants traditionally require match or cost-share. Access to Capital project grants may require match and a private capital raise.

Non-POWER Grants

- **Match:** Non-POWER grants follow ARC's traditional match requirements found at https://www.arc.gov/wp-content/uploads/2020/09/Match-Requirements-for-ARC-Grants.pdf.
- **Capital Raise:** There is no capital raise requirement.

POWER Grants

- **Match:** Dollars dedicated to operations/technical assistance-related project activities follow ARC's traditional match requirements found at https://www.arc.gov/wp-content/uploads/2020/09/Match-Requirements-for-ARC-Grants.pdf.
- **Capital Raise:** To increase the attraction of private sector capital to the Region, all POWER awards used for ATC projects, i.e., loans or equity investment awards, require private capital raise. A portion of the capital raise may be used to meet these match requirements. Currently, ATC projects funded through POWER require a 3:1 private capital raise. This requirement is subject to change.
- The capital raise may **not** count towards the match requirement of any operations/technical assistance project activities.
- The applicant must submit a letter stating that the private capital raise has been completed. If all of the capital is not raised by time of grant approval, the applicant must provide a detailed letter showing progress on current private capital raise. The letter must also contain a commitment to complete the raise within an expected date.
- The private capital raise will count toward the leveraged private investment performance measurement.

Post Award Management and Monitoring

Requesting Payments from ARC and Submitting Progress Reports

All grantees must follow the ARC Grant Administration Manual for ARC Non-Construction Projects provided to every grantee for requesting payments and submitting reports. The Manual can be found here: https://www.arc.gov/resource/grant-administration-manual-for-arc-non-construction-grants/.

ATC grants follow those guidelines but also require some special determinations:

ATC-Specific Report Requirements

- Working with the ARC project coordinator, the grantee may choose to submit interim progress reports and payment requests at a minimum of every 3 months.
- The required forms include, note special requirements are in parenthesis:
    - SF 270, *Request for Advance or Reimbursement* (grantees must mark the "advance" payment option)
    - Advance backup worksheet (required to use this form versus the reimbursement backup worksheet)
    - SF-PPR - Performance Progress Report
    - A progress report narrative (must include loan defaults, cash on hand, pending loans, and a description of any technical assistance).
- If the grant is on the project reporting tool, as determined by the relevant ARC project coordinator, then the grantee will submit the same information online through ARCnet. For funds deployed as loan or equity investments, the grantee must select the "advance" option on the Financial Report Set up tab in the project reporting tool.
- For POWER projects, payment requests should reflect a proportional disbursement of capital raised to ARC funds disbursed at a ratio set by ARC, which is currently 3:1. If a grantee misses this proportional disbursement, then the ARC coordinator may withhold the payment until the requirement is met.

Annual Reporting

Following final disbursement, grantees will transition to submitting annual reports rather than interim reports. The first report will be due within 90 days of the grantee's first fiscal year-end after the final disbursement. Annual reports shall continue for a period of not less than seven (7) years after the first report that follows the final disbursement of the grant. At this 7-year date, grantees may request the closure of the grant and cessation of annual reporting as outlined below in "Release from Reporting."

Reporting should reflect the entire fund. Grantees are not required to report ARC grant funds and program income separately.

The following must be included in the annual report:

- **Brief background (1-2 paragraphs) on the original purpose of the grant to provide context.**
- **Current status (as of fiscal year-end):**
    - Balance of invested/lent funds
    - Number of investments/loans
    - Funds available for investing/lending
    - Loan loss percentage
    - Past due percentage
    - Return on investments
- **Report Period (since last report/over last fiscal year):**
    - Jobs created and retained
    - Number of loans disbursed/investments
    - Amount of loans disbursed/investments

- **Cumulative (since the start of the grant):**
  - Jobs created and retained
  - Number of loans disbursed/investments
  - Amount of loans disbursed/investments

In addition to providing required information on required reports, grantees must provide timely and accurate information to ARC upon request at any point, including after final disbursement. This includes responding with responsive information to any ARC request for success stories.

Release from Reporting

An ATC grantee may request release from reporting and the closing of the grant not less than seven (7) years after the final disbursement of the grant, excluding any subsequent return and disbursal of funds due to excess cash held or other reasons. Requests must be in writing and be signed and submitted by the organization's governing board. An ARC project coordinator will review the grantee's request and make a recommendation based on the programmatic and reporting performance. Following the state's concurrence, the Federal Co-Chair may approve the grantee's request.

If a grantee continues to operate a loan or investment fund after release from reporting and closing the grant, the grantee will submit an operating plan to ARC. The grantee's authorized representative shall sign an agreement that acknowledges the following:

- The federal reversionary interest continues to apply
- Program income shall remain in the project for lending and administrative costs
- The project shall continue to be subject to ARC, Office of Inspector General (OIG), and single audits (if applicable—see 2 CFR Part 200, Subpart F)
- The grantee will submit and must receive ARC approval of any future revisions of the operating plan, and
- The grantee will continue compliance with all applicable federal laws, regulations, and ARC requirements.

The grantee's authorized representative will be required to annually submit to ARC a signed declaration that it continues to operate as a revolving loan/equity fund.

Program Income

For auditing purposes, grantees must track program income:

- Program income typically includes but is not limited to the following: return on investments, loan principal and interest, fees, penalties and interest caused by the borrower's late payment, proceeds from the sale of collateral in excess of the unpaid balance of the original loan, and interest earned on cash balances held while awaiting relending or reinvestment.
- Program income must be added to the fund to expand lending or investment or cover reasonable and necessary administrative costs. Income added to the capital base may not be withdrawn, other than for the purposes stated above, without the prior written consent of the Commission.

Annual Audit Requirements

The following requirements pertain to any grantee, subgrantee, or recipient or subrecipient of federal financial assistance, regardless of which federal agency makes the award, as required by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200, Subpart F.

A grantee that expends $750,000 or more in its fiscal year in federal awards or financial assistance, including but not limited to the ARC contribution, shall have a single or program-specific audit conducted for that year. Grantees should notify auditors that the Catalog of Federal Domestic Assistance number for ARC programs is 23.011, Appalachian State Research, Technical Assistance and Demonstration Projects.

To determine when a federal award is expended, the grantee must examine when the activity related to the federal award occurs. See 2 CFR 200.502(a). Generally, the activity pertains to events that require the non-federal entity to comply with federal statutes, regulations, and the terms and conditions of federal awards, such as:

- expenditure/expense transactions associated with awards (including grants, cost-reimbursement contracts under the FAR, compacts with Indian Tribes, cooperative agreements, and direct appropriations);
- the disbursement of funds to subrecipients;
- the use of loan proceeds under loan and loan guarantee programs;
- the receipt of property or surplus property;
- the receipt or use of program income;
- the distribution or use of food commodities;
- the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and
  the period when insurance is in force.

The following guidelines must be used to calculate the value of the federal awards expended under loan programs:

- Value of new loans made or received during the audit period; plus
- Beginning of the audit period balance of loans from previous years for which the federal government imposes continuing compliance requirements; plus
- Any interest subsidy, cash, or administrative cost allowance received. 2 CFR 200.502(b).

Grantees that expend less than $750,000 a fiscal year in federal awards, including ARC's contribution, are exempt from the single audit for that year. Records must be available for review or audit by appropriate officials of ARC, including the OIG. No program income or grant funds will be expended for audit in these cases.
Audits must be performed by a public accountant or a federal, state or local government audit organization which meets the general standards specified in Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States (known as the Yellow Book). Audits must conform to these standards. Auditors are required to follow the provisions of 2 CFR Part 200, subpart F, and the Compliance Supplement at Appendix XI to 2 CFR Part 200.

Records Retention

Grantees shall maintain complete records of all activities related to the award, including closed loan and investment files and all related documents, books of account, computer data files and other records over the term of the closed loan or investment, and for a three-year period from the date of final disposition of such closed loan or investment. The date of final disposition of a closed loan or investment is the date: principal, interest, fees, penalties and all other costs associated with the closed loan have been paid in full; or final settlement or discharge and cessation of collection efforts of any unpaid amounts associated with the closed loan or investment have occurred. However, if any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
Grantees must at all times:

1. Maintain adequate accounting records and source documentation to substantiate the amount and percent of loan or investment income expended for eligible administrative costs;
2. Retain records of administrative expenses incurred for any and all activities, and any and all equipment or property, relating to the operation of the loan or investment fund for three years from the actual submission date of the report that covers the fiscal year in which such costs were claimed; and
3. For the duration of loan or investment fund operations, maintain records to demonstrate the adequacy of the grantee's accounting system to identify, safeguard and account for the entire capital base, outstanding loans and other operations.

Grantees must ensure that standard loan and investment documents reasonably necessary or advisable for lending or investment are in place; and fidelity bond coverage for persons authorized to handle funds under the grant award in an amount sufficient to protect the interests of ARC and the grantee.
Grantees must also make available for prompt and timely inspection retained records, including those retained for longer than the required period. The record retention periods described in this section are minimum periods and such prescription does not limit any other record retention requirement of law or agreement.

Noncompliance

ARC will take appropriate compliance actions for a grantee's failure to operate the fund in accordance with the terms and conditions of the grant agreement, or ARC policies and guidelines, including but not limited to failure to obtain ARC approval to material changes in the investment guidelines; failing to submit timely reports as required by these guidelines; failing to manage the grant prudently; making an ineligible loan or investment; failing to comply with audit requirements or implement timely resolutions to audit findings; having or not reporting a conflict of interest; or failing to comply with any other requirement.
If noncompliance is found, ARC may require any of the following (not an exclusive list): increased reporting; implementation of a corrective action plan; an audit; repayment of ineligible loans or costs to ARC; transfer or merger of the ARC's funds to another entity; suspension of the grant; or termination of the grant, in whole or in part.
ARC assistance must be withdrawn if for any reason the activity financed or the economic benefit is moved from the Appalachian Region.

In certain circumstances, ARC may disallow a proportion of the grant or direct the grantee to transfer loans to a third party for liquidation.

ARC shall determine the manner and timing of any suspension or termination action. ARC may require the grantee to repay the federal share in a lump-sum payment or enter into a sale, or ARC may agree to enter into a repayment agreement with the grantee for repayment of the federal share.

Appendix A: Applying for a Grant

ARC awards grants to projects that address one or more of the five goals identified by ARC in its strategic plan and that can demonstrate measurable results.

Applicants must follow all ARC application guidelines and checklists specific to access to capital projects. Applicants must include the following in their narrative proposals:

1. SF 424a Form: The applicant will show the private capital raise in the "Other" line item in the application's budget forms (SF 424a) and budget narrative as part of the application.
2. Project Description:
    a. Provide a brief statement that describes the project's primary purpose, main activities, and expected impacts.
    b. Describe in detail what activities and processes the project will engage in, who will conduct the activities, and who will participate.
    c. Outline the proposed financial products and/or services.
    d. Describe one or two sample projects and how the deals might be structured.
    e. Detail technical assistance to be provided to borrowers.
3. Strategic Rationale:
    a. Describe the gaps in currently available capital for the targeted communities. Summarize local and regional demand, including the number of projects, types of projects, and total dollars needed.
    b. If applicable, provide the deployment rate for currently available assets and outline restricted and unrestricted asset allocation.
    c. Upload a document (no more than one page) outlining a pipeline of loan or equity investment opportunities, including the type of business (e.g., retail, restaurant, manufacturing, etc.), amount requested (if available), and brief description (1-4 sentences) of the intended use of financing.
    d. Include any feasibility studies or other assessments substantiating the demand for this project.
    e. Provide at least two letters of demand from businesses and other community stakeholders that attest to the need and impact of the proposed project.
    f. Describe traditional sources of financing or financial services available to the target communities and how the proposed product/services are superior or complementary.
4. Regional Strategy/Plan
    a. Explain how the proposed project represents progress toward addressing a regional strategy, such as a comprehensive economic development strategy or a local visioning process.
    b. Describe other project benefits likely to result from the project (e.g., positive impact on future economic development activity in the area).
5. Collaborative Partnerships
    a. Describe any partnerships or collaborations with other local community, state, regional, and federal partners in developing the proposal, particularly outlining key organizations within the Region's entrepreneurial ecosystem that will support effective service delivery.
    b. Describe the Applicant's ownership, including the following information if applicable: For organizations that have affiliated companies (e.g., parents, affiliates, subsidiaries), please provide a list of the individual owners with their contact information of those entities. Briefly describe the relationship between

the Applicant and these other entities and individuals, including management and products/services exchanged.

   c. Briefly describe the applicant's capacity to manage the funds and conduct associated programmatic activities effectively. Describe the applicant's experience with similar activities and length of time involved.
   d. Provide an overview of underwriting/investment guidelines and portfolio management systems. Please upload underwriting and investment guidelines and policies.
   e. Discuss whether the applicant is a member of any finance associations or organizations and the level of involvement.
   f. If an existing financial organization, please provide historical financial statements prepared according to Generally Accepted Accounting Principles (GAAP) for the past 3 years, including income statements and balance sheets and a current balance sheet and income statement according to GAAP and dated within 90 days of the application.
6. Organizational Experience
   a. Grants Management: Describe ability to adhere to grant compliance and reporting requirements by describing any (1) experience in managing a previous grant(s); (2) familiarity with federal grants regulations; and/or (3) experience managing federal awards.
   b. Staff Qualifications: Briefly describe the qualifications of key individuals who will manage and operate the project including staff and the members of the investment committee. Attach position descriptions (if not hired) or brief resumes of these individuals.
   c. Please attach the loan and/or investment operating plan.
7. Outside Personnel Qualifications: If you plan on procuring the services of contractors or consultants to conduct any part of the project, describe the competitive procedures that will be used to select them. (You will be required to submit qualifications of all consultants and subcontractors once procured.)
8. Project Sustainability: Explain how the project will achieve long-term sustainability once ARC support is no longer available. Include a plan and timeline of efforts to secure other sources of support for future operations.
9. Please upload a five-year pro forma balance sheet that reflects the use of the loan proceeds or grant award; indicating the necessary start-up capital, operating capital, and short-term credit; and projected cash flow and income statements for five years supported by a list of assumptions showing the basis for the projections.
10. If the applicant has a business plan, please attach it to the application.

Performance Measures

All ARC projects must have documented output and outcome performance measures. Estimated measures are included in project applications and actual measures are reported in the project closeout reports. Every ARC project must have at least one output measure and one outcome measure from the lists below. Some output measures can be used with a range of outcome measures (these are called "standalone measures"), and some output measures must be used with specific outcome measures (these are called "paired measures"). Projects that have paired output and outcome measures may also have a stand-alone output or outcome measure with no corresponding measure.

Typical performance measures include:

1. Businesses served - The number of businesses served by an ARC project. This includes businesses receiving technical assistance or participating in training, entrepreneurship, export, or other business development and improvement programs. Additionally, with access to capital grants, a borrower and an investee may be counted as a business served.
2. Businesses improved - The number of businesses with a measurable improvement as a result of an ARC project. The grant applicant and ARC project manager must agree on what constitutes "measurable improvement" and a method for measuring the degree of improvement must be provided. Typically, this may include jobs created, revenue generated, new customers, new markets, and other measures. For each project this number is always a subset of, or the same as, the "businesses served" output measure.
3. Businesses created - The number of new businesses created as a result of an ARC project. This measure should only be used to measure new business creation, not the number of existing businesses recruited or otherwise relocated from other areas. The grant applicant should estimate how many new businesses will be created within **three years** of the project end date.
4. Leveraged private investment (LPI) - The dollar amount of private-sector financial commitments, outside of project costs that result from an ARC project, measured during the project period and up to **three years** after the project end date. Committed private investment partners should provide letters of intent. Private capital raise should be reflected in this measure.
5. Jobs Created - The number of jobs created (direct hires, excluding construction jobs) because of an ARC project, measured during the project period and up to **three years** after the project end date. Part-time and seasonal jobs should be converted to full-time equivalents and rounded up to whole numbers. Applicants should estimate the number of jobs that will be created by the organizations expected to benefit from the project.
6. Jobs Retained - The number of jobs retained as a result of an ARC project. These are existing jobs that would be lost or relocated if the ARC project were not undertaken. Grant applicants should estimate the number of existing jobs that would be at risk, due to relocation or loss of competitiveness, without the ARC-funded project.

STEED REVOLVING LOAN FUND PROGRAM

Program Guidelines and Operating Criteria

1. STATEMENT OF PURPOSE

The Southern Tier East Economic Development Revolving Loan Fund Program (STEED) is designed to stimulate the creation and expansion of small businesses for the purpose of retaining and/or creating jobs in Broome, Chenango, Cortland, Delaware, Otsego, Tompkins, Tioga and Schoharie Counties of New York State (the eight county STEED Region).

The STEED RLF provides low interest financing to small business concerns unable to fully finance their projects with equity, conventional financing, or other private and public sources.

2. GOALS AND OBJECTIVES

One of the major problems in local business development, and a significantcontributing factor to local economic distress, is the problem of credit availability. Even when available, the cost and terms of the credit may prevent firms from expanding, continuing operations, or starting up. The result may be a community's loss of jobs, tax revenues and private investment.

While the STEED RLF is not a substitute for conventional financing, it can fill in the gaps in existing local financial markets and attract additional capital, which would otherwise not be available for economic development.

3. PROGRAM DESCRIPTION

The STEED RLF Program is primarily designed to assist existing firms in the eight County STEED Region by offering low interest financial support for the purchase of fixed capital assets or working capital. Eligible businesses may finance up to 40% of a project's cost up to a maximum of $200,000.

Initial participation by conventional lending institutions is preferred, and STEED will take a subordinated security position to the bank, thus assisting less established firms in forming a banking relationship. However, in the event that conventional lending institutions choose not to participate STEED may provide direct lending up to 50% of a project's cost up to $200,000 in conjunction with an equity investment or in conjunction with other funding sources and an equity investment. Since STEED participation in a project must not displace local commercial lenders, a request for direct STEED financing must be accompanied by a commercial lender letter declining participation. If warranted loans may also be granted that require interest only payments for specific terms.

The successful applicant must be able to document that the planned project will result in job creation and/or retention.

4. ELIGIBILITY

AREA: STEED borrowers must use loan proceeds in operations located within the eight County STEED Region. **BUSINESS ACTIVITIES:** Firms classified in the following industries are eligible for RLF financing:

A. Manufacturing; this category includes all industries having a Standard Industrial Classification of 20 through 39.

B. Industrial/Commercial; this category recognizes the shift from manufacturing to the service sector in today's economy. In recognition of this trend, the ALC will consider businesses including but not limited to data management, computer software, agri-business, printing, publishing, research and development, warehousing and distribution and other companies that sell typically 60% of its products and/or services to customers located outside of the STEED eligibility area.

C. Retail; this category recognizes that under certain circumstances there may be a need for the ALC to consider assisting a retail project. Criteria that should be used in evaluating a retail project should include but not be limited to the following:

1. The project is a catalyst/anchor that will insure the success of a larger planned development or re-development project.

2. Substantial employment and investment will occur as a result of the ALC assistance.

3. The ALC recommends to the BCIDA Board that there is no apparent indication that RLF assistance will result in creating unfair competition with a similar business or businesses in the municipality.

4. In addition to these local policies, New York State General Municipal Law, Section 862 prohibits industrial development agencies assisting retail projects unless some of the following conditions are met. These guidelines should also be used by the ALC in evaluating retail projects:

a. Is considered a tourism destination facility
b. Is operated by a not-for-profit corporation
c. Will locate outside of the State without IDA assistance
d. Is located in a highly distressed area
e. Makes available goods or services not reasonably accessible
f. Preserves or increases permanent jobs

D. Non-profits

E. Local Governments

F. Social Enterprises

G. Exception; If warranted, a project may be presented by a business other than those mentioned for consideration if substantial economic impact is determined by job creation and/or retention or any other special criteria that are deemed acceptable.

H. All applicants must demonstrate need for funds.

I. RLF loans will normally finance industrial, trading or commercial activities; including assistance for light manufacturing and service industries, where the opportunity for private sector job creation/ retention are the greatest. However, in all instances, credit will be extended at the discretion of the ALC and Board of Directors on a case-by-case basis.

COSTS: The following costs are eligible for funding:

A. Land costs, associated with the purchase, renovation or construction of a building, including acquisition, site preparation, infrastructure, engineering, legal and other related activities.

B. Building costs, including acquisition, construction, renovation, engineering, architectural, legal and other related costs.

C. Machinery and equipment, includes purchase, delivery and installation and related costs.

D. Working Capital.

5. LOAN PARAMETERS

LOAN SIZE: Loans shall be governed by a $15,000 maximum cost per job factor based upon a three (3) year new employment or job retention project. The maximum loan for land, building, machinery and equipment (fixed assets) or working capital that one applicant may borrow is $200,000 or 40% of the total project cost whichever is less. Special consideration for greater participation up to 50% will be given to projects that create high end, high wage positions and/or a substantial number of new job opportunities.

PRIVATE SECTOR INVESTMENT: Loans will preferably be made in conjunction with private sector lending sources, owner equity, private equity or other private sources.

EQUITY: Projects will normally require a minimum 10% owner equity and a minimum 40% bank participation. Exceptions to this structure may be considered on a case-by-case basis.

LOAN SECURITY: All loans will be secured by the highest position available on one or more of the following assets: Land, Buildings, Machinery, Equipment, Accounts Receivable and Inventory and/or personal assets or such other assets as are deemed appropriate. In addition loans will require corporate and/or personal guarantees unless a situation exists where such guarantors are not available, (i.e., widely held private corporations).

TERMS: Loans for real estate will have a typical repayment period of ten years; special circumstances can allow for a fifteen year term. Machinery and equipment loans will have a maximum term of eight years or no longer than the useful life of the assets being financed. Working capital loans will have a maximum term of three years; special circumstances can allow for a five-year term.

INTEREST RATE: All STEED loans have an interest rate set at seventy five percent (75%) of the lowest published (Wall Street Journal) prime rate, fixed at day of closing. Real Estate loans having a term exceeding five years will have the rate fixed for five-year periods and the Agency reserves the right to adjust it according to market conditions.

The Board of Directors of the Agency, on the recommendation of the Loan Committee, reserves the right to adjust the interest rate within the limitations set forth by the ARC to a level that will stimulate economic development and enhance program use. The minimum interest rate allowed will not be less than four (4) percentage points below the current U.S. Treasury rate for issues of similar size and maturity.

FEES AND PENALTIES: The Agency charges the following processing fees:

A. Application fee; $250.00. This fee is non refundable.

B. Closing fee; reasonable and customary legal costs, filing and recording fees may be charged.

C. Failure to meet any of the terms and conditions of the loan may result in an increase in the interest rate of up to two points above the prevailing prime rate.

6. INELIGIBLE LOANS

A. Speculative activities, such as land banking and the construction of speculative buildings are not permitted since they do not normally result in near-term job creation or retention, nor is any prospective employment normally under the control of the borrower.

B. Loan activities and economic benefits resulting from these activities must be located within Broome County. Title IX assistance will be withdrawn if for any reason the activity financed is moved from Broome County.

C. Loans that assist in the relocation of jobs from another labor area are prohibited; also, loans that would allow the relocation of jobs within the local labor area unless there is a demonstrated need.

D. Loans for the purpose of investing in high interest accounts, certificates of deposit or other investments not related to job creation/retention are prohibited.

E. Prohibitions concerning STEED loans that would create a potential conflict-of-interest for any officer or employee of the grantee, or any current member of the grantee's loan administration staff who reviews, approves or otherwise participates in decisions on STEED loans, are contained in the General Terms of the grant agreement.

Former members of the Board, former members of staff and former members of the Advisory Loan Committee are barred from STEED assistance for a period of one year from the date of termination of their service to the Board, Loan Advisory Committee or staff position of the grantee or any of its subsidiaries. Loan activities that directly benefit these individuals or people related to them by blood, marriage, or law will be prohibited in accordance with the General Terms of the Grant, for a period of one year from the date of termination of service of such related person.

F. Proceeds from the STEED RLF cannot be used to purchase equity in private business, subsidize payments on existing loans, refinance loans made by other lenders, provide the equity contribution required of borrowers participating in other Federal loan programs and no loan or guaranty shall be made to any recipient of Federal direct loans or assistance without prior notification of the ARC.

7. LEGAL REQUIREMENTS

All borrowers of the RLF must comply with the requirements of Federal and State and local laws concerning civil rights, the environment, flood protection insurance, and access to the physically handicapped.

8. DELINQUENT LOAN & COLLECTION PROCEDURES

The Broome County Industrial Development Agency as the Administrator of the STEED loan fund will provide its best effort to collect all monies lent under the STEED loan program.

Delinquent Loan Definition: All loan accounts that have not had any payment activity during a sixty (60) day period or those loans that are sixty (60) days in arrears.

The Broome County Industrial Development Agency will monitor the monthly repayment activity of all outstanding loan accounts and initiate normal collection procedures, i.e., notice for payments, collection calls and other legal means necessary to collect the outstanding debt. When normal procedures fail to produce the desired results the account will be turned over for legal remedies and pursued to a conclusion.

9. PROCEDURE FOR AMENDMENT

As necessary, the Advisory Loan Committee shall review the overall operations of the STEED loan fund program. When the need for change or modification of policy arises, the Advisory Loan Committee shall submit such recommendations to the Board of Directors of the Broome County Industrial Development Agency for review and subsequent action.

10. LOAN APPLICATION REVIEW

All loan applications shall be reviewed by the members of the Broome County Industrial Development Agency's STEED Advisory Loan Committee. Said committee will provide recommendations to the Board of Directors of Broome County Industrial Development Agency for final approval.

STEED APPLICATION PROCEDURES

A. STEED Loan Applications will be distributed to all major economic development groups within the Counties described as the Southern Tier Region for redistribution to potential fund users.

The local economic developers will review the completed application and forward it to the BCIDA for processing.

A STEED program manager will be available to assist the applicant at any and all levels of the STEED loan process.

B. A STEED program manager or assigned staff will review the application for completeness and determine that the applicant meets the basic eligibility criteria for the region.

Once determined eligible, a complete financial review shall be conducted to establish the merits of each application. A detailed summary on each project will be compiled for presentation to the Advisory Loan Committee for action.

C. The Advisory Loan Committee (comprised of no greater than 15 members) will meet monthly to process applications. The Committee shall approve, deny or table applications, as they deem necessary. Approved applications will be submitted to the Board of Directors of the BCIDA for final ratification.

D. Upon ratification by the Board of Directors of the BCIDA, the Program Manager will forward a terms and conditions letter to the applicant for acceptance of the commitment.

E. Upon acceptance, Council for the Agency will prepare the necessary documents to close the Loan.

F. Fund Disbursement -All funds will be disbursed to invoice or upon proof of payment, funds will be reimbursed. No funds will be disbursed without such documentation.

G. Timing -Typically complete applications can be processed and presented to the Advisory Loan Committee within 45 days. BCIDA Board of Directors meet once per month and typically can take action on a STEED application within two weeks of the approval date by the Advisory Loan Committee.

<u>Extraordinary Circumstances</u> - factors not normally incident to or foreseeable during an administrative proceeding. It includes circumstances beyond a party's control that normal prudence and experience could not foresee, anticipate or provide for:

- Extreme Weather
- Medical Emergency of oneself or a family member
- Car Trouble (or other) Accident
- Personal Illness
- Necessary Medical Appointments
- House Emergency
- Military Obligations
- Jury Duty
- State of Emergency – by County Executive or Governor
- Bereavement

FROM: Ostroff Associates

DATE: April 13, 2022

RE: Status of Open Meetings Law (OML)

On **March 12, 2020**, Executive Order (EO) [202.1] was signed as part of the State's COVID-19 Disaster Emergency Declaration, suspending the New York State law that required meetings to take place in person, therefore, allowing for public meetings to be held virtually.

On **June 25, 2021**, the State Disaster Emergency ended, which removed this provision (EO 202.1) that suspended the law.

On **September 2, 2021**, the Governor signed into law Chapter 417 of the Laws of 2021 (S.50001 Kavanagh/A.40001 Dinowitz), which mirrored EO 202.1 and allowed for remote public meetings to continue to be held in the same manner as was allowed during the State Disaster Emergency through January 15, 2022.

On **October 19, 2021**, the Governor signed into law Chapter 481 of the Laws of 2021(S.1150A Kaplan/A.1228A Paulin) which amends § 103(e) of OML to require that records that will be discussed at a meeting should be made available upon request, as well as posted online at least 24-hours before the meeting.

- The obligation to make records available to the public upon request and to post the records on the agency website has been in effect since February 2012.
- The only change this amendment made was placing a 24-hour minimum time frame for making those records available.

On **November 8, 2021**, the Governor signed into law Chapter 587 of the Laws of 2021(S.4704A Kaplan/A.1108A Paulin), which amended the OML to require agencies that maintain a website to post meeting minutes on their website within two weeks of the meeting date, or within one week of an executive session.

On **December 21, 2021**, the Governor signed into law Chapter 676 of the Laws of 2021 (S.1625A Skoufis/A.924A Paulin), which amended the definition of "public body" to mean any entity for which a quorum is required in order to conduct public business or where two or more members are performing a governmental function for a public body or entity.

On **January 14, 2022**, Governor Kathy Hochul signed into law Chapter 1 of the Laws of 2022, which was a chapter amendment that amended Chapter 417 of the Laws of 2021 to also allow for meetings to be held by conference call.

- Please note, at this time, Chapter 1 would be repealed should the state disaster emergency end (pursuant to Governor Hochul's EO 11).
- As of this date, EO 11.3 had extended EO 11 through March 16, 2022.

On **March 16, 2022**, Governor Kathy Hochul signed into law EO 11.4 (extending Executive Order 11), which allows for remote public meetings to continue to be held in the same manner as prescribed in Chapter 1, through April 15, 2022.

On **April 9, 2022**, Governor Hochul signed Chapter 56 of the Laws of 2022 (S.8006-C/A. 9006-C) relating to ELFA Part WW in the FY22-23 New York State Budget. Included in the bill (ELFA Part WW), was an amendment to OML which would make permanent, the expanded use videoconferencing by public bodies to conduct open meetings, under extraordinary circumstances, regardless of a declaration of emergency, until July 1, 2024.

- Until then, it is important to note that the law permits public bodies to continue to hold remote meetings in the same manner as described in Chapter 1 of the Laws of 2022, for a period of 60 days after its effective date, or until June 8, 2022.

<u>The NYS Committee on Open Government Q&A – Chap. 56 of the Laws of 2022</u>

The full Q&A can be found here.

This new law is not meant to change what has always been required of public bodies complying with the OML. Public bodies may continue to operate now as they did before the onset of the pandemic in early 2020 when the "in person" aspects of the OML were first suspended.

- In other words, if a public body was permitted to do it before the pandemic, this law does not change that.

As noted above, this law is intended to expand, in extraordinary circumstances only, the ability of public bodies to meet using remote access technology.

- Each public body that wishes to allow for remote attendance is required to adopt a local law, joint resolution, or a resolution authorizing remote attendance, and they must also establish written procedures on what they determine to be "extraordinary circumstances."

- Any local public body that elects to utilize the "extraordinary circumstances" videoconferencing, must maintain an official website.
- Even if a public body allows its members to participate remotely, under extraordinary circumstances, at locations that do not allow for in-person physical attendance by the public, they still must afford members of the public the opportunity to view the meeting by videoconference.
- Public bodies are not required to allow their members to participate remotely, under extraordinary circumstances, at locations that do not allow for in-person physical attendance by the public. They are allowed to use discretion.

Any member who participates at a physical location that is open to in-person physical attendance by the public (and which location has been included in the meeting notice) may count toward a quorum.

- A member who is participating from a remote location may not be counted toward a quorum of the public body, but can still participate and vote if there is a quorum of members at a physical location.

Each meeting conducted using videoconferencing must be recorded, and posted or linked on the public website of the public body within five business days following the meeting, and remain available for a minimum of five years. These recordings must also be transcribed upon request.

- This law requires that any participating member of a public body must be able to be seen and heard thus, teleconferencing (audio only) is not an acceptable form of member participation under this law.
- Meeting minutes must reflect which members of the public body participated.
- Those participating virtually in a public meeting must have the same access to public participation or testimony as those participating in-person.
- Executive Sessions do not need to be recorded or transcribed. It was determined that this law only applies to portions of the meeting that the public would be able to attend.

Public meetings can still be conducted with members at multiple physical locations as the intent of this expansion was not to limit the existing authority to virtually connect.

- Additionally, fully remote meetings can still be conducted under State Disaster Emergencies or Local State Emergencies.