

THE PUBLIC SUBSIDY BOARD

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December 11, 2024, 11:00 am
Harriman State Campus, Building 12, Albany, NY 12226
199 Church Street, New York, NY 10007

Board Members Present, Albany:

Roberta Reardon (Chair)
Albert Catalano
Daniel McGraw
Christopher D. Alund
Laura Regan
Joseph Hogan
Shaun McCready (Board Secretary)
Laura Campion (DOL Counsel)

Board Members Present, NYC:

James Whelan
Peter Florey
Hope Knight
Lara Skinner
Gary LaBarbera

The Chair convened the hearing at 11:07 am and noted that a quorum had been established and that there will be no public testimony during this meeting.

The Secretary provided updates to the Board.

- The Bureau is excited to be overseeing the launch of the new Contractor Registry system for the State of New York. This new law goes into effect in a few weeks on December 30th.
- Contractors who plan to solicit work on covered projects must register with the Department of Labor.
- For the Board's purposes, please note that covered projects include those construction jobs subject to Section 224-a. The purpose of the law is to ensure accountability while protecting workers. Contractors will be asked to provide proof of Workers Compensation and unemployment insurance coverage in order to register. Companies that currently are debarred will not be permitted to register.

- The Bureau has worked with Communications, Counsel's Office, and DOL's IT unit to get the system up and running ahead of time to avoid delays that otherwise could affect contractors' ability to bid on projects.
- Next year, the system will be publicly searchable so that agencies and the general public can view registrants' basic information. The Board Secretary assured the meeting that confidential information will remain confidential and be hidden from public view. He is interested in hearing any feedback Board members receive about the registry.

Next, the minutes of the September 25, 2024 were reviewed and the Chair moved that the minutes be approved. The motion was seconded and passed unanimously.

The Chair stated that the next item on the agenda is to continue the discussion on the public hearing topic of calculating tax savings. At the September 25th meeting, it was decided to take more time to review and digest materials presented, then to hear from the experts who submitted written testimony. Three of eight invitees are present today to discuss their written testimony and to take questions from the Board members. Their written testimony is available on the Board's website and was provided to the Board for review prior to this meeting. As a reminder, the hearing conducted on May 20, 2024, is still open. Today, the Board must consider the new information along with all of the information provided since the hearing began on May 20th.

The Chair reminded the Board that the goal of this hearing is to develop recommendations on the topics of calculating tax savings and calculating other funds.

The Secretary reminded the Board of the recommendation process as laid out in the Board Procedures.

The Commissioner introduced the first expert joining virtually: Dr. Alexander Heil, Practicing Economist and Adjunct Faculty at Columbia University and New York University. Dr. Heil stated that any calculation used to capture current and future payments, benefits, subsidies, or financial flows should undergo a rigorous discounted cash flow analysis. From a state budget point of view, it might be appropriate especially for the longer time horizons to use something that mirrors its state long-term borrowing rate.

The Commissioner introduced the second expert joining virtually: Ryan Silva, Executive Director of the New York State Economic Development Council.

Ryan Silva stated that prior to any abatement, industrial development agencies (IDAs) are required by State law to submit a benefit cost analysis. Factors to be taken into consideration about when and how to use net present discounted value are geography, cost of capital, local tax rate and other factors. Given the wide range of factors, Silva suggested deferring to the models that are utilized by local IDAs across the state on how to calculate net present value, which can vary from project to project.

The Commissioner introduced the third expert joining virtually: Michael N'dolo, Director of Economic Development at the MRB Group.

Michael N'dolo opened by saying that there are four options to consider for establishing the discount rate. He said one option is to use a single discount rate, which is easiest and simplest, but not necessarily the best way. The second option is to insert subjectivity, by using a range of rates with an established criteria. The third option is geographically, but he said it is difficult to get geographically specific with discount rates. The fourth option, which N'dolo believes makes the most sense for the board to consider, is using implied discount rates, based on market data right now, by project type.

The Commissioner remarked that the Board has heard from many experts on two topics of the May 2024 public hearing, and today had the opportunity to gather additional information on the topic of calculating tax savings and question those who provided further details and expert opinions. The Commissioner then invited the Board members if anyone had any observations to share.

On calculating tax savings:

James Whelan remarked that including a discounted rate, net present value rate in the calculation is appropriate, but what that rate should be and can it be done in an objective manner and not subject to a particular idea, or individual. He thinks using an objective source, such as [realtyrates.com](https://www.realtyrates.com) makes sense.

Peter Florey said that many of the IDAs do use the present value to establish their own discount rate. He believes the Board should allow the IDA boards to make that determination themselves, but with a cap on using the discount rates, as suggested by Michael N'dolo. He stated that IDAs have a strong voice, and he would want to give them deference.

Gary LaBarbera stated that deference to IDAs needs to be regional or uniform. He believes it would be difficult to come up with a number for NYC as opposed to the rest of the State.

Chair Reardon said the Board needs to determine how best to move forward and start formulating potential recommendations based on the information already provided to them. Between now and the March 2025 meeting, she asked that Members take these suggestions and run some numbers through them and see what the differences are and the actual implications of using any of these suggestions, in order to present proposals at the March meeting.

Chair Reardon proposed that the board conclude this part of the meeting, reminding Members that the hearing remains open. Chair Reardon asked the Board to identify any other expert(s) to testify, because the hearing is still open and they could be invited to come in and present.

James Whelan stated he supports this approach.

Lara Skinner said it's relevant to think about the spirit of the law, and the impact of paying prevailing wage. She asked whether experts should be invited to speak on the impact of total project costs and paying prevailing wage.

Chair Reardon answered that the definition of total construction project costs has not been a topic of a public hearing yet, and the impact of the labor to the entire project has been discussed generally by this Board, but not specifically.

Joseph Hogan stated that the Board would need testimony from construction estimators and to dive into total construction project costs in a separate hearing. He continued to say that a lot of folks are not looking at the weight of a subsidy or pilot much beyond the 5 years, as years 1-5 are the critical piece.

Albert Catalano remarked he is unsure about whether the subsidy or pilot should be discounted.

Next, the Chair moved to go into executive session at 12:40 to discuss certain projects that, in accordance with the statute, must be discussed confidentially. The motion was seconded and passed.

The Chair moved to end the executive session at 12:54pm. The motion was seconded and passed. Upon returning to the public meeting, Chair Reardon announced that two projects were reviewed in executive session and determinations were issued by the Board for one project. The second project was referred back to the Bureau of Public Work and Prevailing Wage Enforcement for further information.

The Chair stated that the next Quarterly meeting is scheduled for Wednesday, March 19, 2025 at 11:00am, and to please keep in mind that there may also be additional meetings scheduled as necessary. All dates for 2025 have been set and are available online. Materials will be posted on the boards and committees section of the New York State Department of Labor's website.

The Chair moved to end the meeting and the motion was seconded. The meeting ended at 12:55.