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Department of State
Committee on Open Government

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FOIL AO 19892

OML AO 5674

ADVISORY OPINION

TO: Whom it May Concern

FROM: Kristin Bergin
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Re: Public Authorities, Industrial Development Agencies, and Local Development Corporations

DATE: October 21, 2026

The Committee on Open Government is authorized to issue advisory opinions.

The following represents guidance from the Committee on Open Government regarding the application of the Freedom of Information Law (FOIL) and the Open Meetings Law (OML) to public authorities, industrial development agencies, and local development corporations.

Public Authorities:

FOIL governs access to "agency" records, and Public Officers Law § 86(3) defines the term agency, in relevant part, as:

> any state or municipal department … **public authority, public corporation**, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof. (emphasis added)

The OML governs meetings of public bodies and Public Officers Law § 102(2) defines that term to include:

> any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a **public corporation as defined in section sixty-six of the general construction law**.

Pursuant to Public Authorities Law § 2, state authorities and local authorities are either public authorities or public corporations and, as such, are subject to both FOIL and OML.

In addition, Public Authorities Law § 2829 states that:

> All state and local authorities, as such terms are defined in section two of this chapter, as well as all subsidiaries of such state and local authorities, as such terms are defined in section two of this chapter, shall be subject to the provisions of articles six and seven of the public officers law relating to the freedom of information and open meetings laws respectively.

Industrial Development Agencies:

Industrial Development Agencies (IDA) are types of public benefit corporations established pursuant to General Municipal Law § 856(2) ("An [industrial development] agency shall be a corporate governmental agency, constituting a public benefit corporation.").

Public benefit corporations are types of public corporations and, therefore, are agencies subject to FOIL and the governing bodies of the IDAs are public bodies subject to the OML.

Local Development Corporations:

Local development corporations are not-for-profit entities created pursuant to New York State Not-for-Profit Corporations Law.

Section 1411(a) of that statute states, in relevant part:

> Corporations may be incorporated or reincorporated under this section as not-for-profit local development corporations operated for the exclusively charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest, and **any one or more counties, cities, towns or villages of the state, or any combination thereof, or the New York job development authority in exercising its power under the public authorities law to encourage the organization of local development corporations, may cause such corporations to be incorporated by public officers or private individuals** or reincorporated upon compliance with the requirements of this section, **and it is hereby found, determined and declared that in carrying out said purposes and in exercising the powers conferred by paragraph (b) such corporations will be performing an essential governmental function.**

The definition of "local authority" in Public Authorities Law § 2 includes "a not-for-profit corporation affiliated with, sponsored by, or created by a county, city, town or village government." (Public Authorities Law § 2(1)). A **local development corporation** as defined by NFPCL § 1411(a) is a not-for-profit corporation that is "affiliated with, sponsored by, or created by" a municipal government. In addition, by statute, the Legislature has "found, determined and declared" that local development corporations are performing an essential governmental function.

As such, it is our view that local development corporations are "agencies" subject to FOIL and the governing bodies of the corporations are "public bodies" subject to the OML.