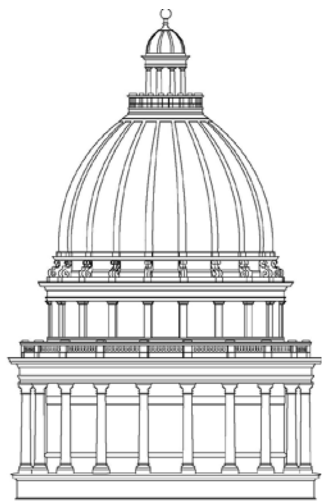
REPORT TO THE

UTAH LEGISLATURE

Number 2022-10



A Performance Audit of Tax Increment Financing

September 2022

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

Office of the Legislative Auditor General

Kade R. Minchey, Legislative Auditor General

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September 20, 2022

The Utah State Legislature:

Transmitted herewith is our report, A Performance Audit of Tax Increment Financing (Report #2022-10). An audit summary is found at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any items contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

Kade Minchey

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Auditor General
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UTAH STATE LEGISLATURE

AUDIT SUMMARY

REPORT #2022-10 | SEPTEMBER 2022

Office of the Legislative Auditor General | Kade R. Minchey, Auditor General

Tax Increment Financing (TIF)

PERFORMANCE AUDIT

AUDIT REQUEST

The Legislative Audit Subcommittee requested that we evaluate the overall success of tax increment financing (TIF) as a tool for municipalities to incentivize economic development. To accomplish this task, we reviewed past project area plans, assumptions, analyses, and outcomes from a random sample of ten case studies within Class 1 and Class 2 counties. Our audit team also reviewed four Economic Development Tax Increment Finance (EDTIF) project areas at the state level.

BACKGROUND

Tax increment financing, or TIF, is an economic development tool designed to coordinate the actions of government and the for-profit sector by allocating revenue from property tax increases to fund development activities. TIF funds can be used for building infrastructure, acquiring or assembling parcels of land, paying developer incentives, and mitigating blight, among other uses. To use TIF funds, cities and counties need to work through a redevelopment agency. The agency board can create project areas and invite additional taxing entities, such as school districts, to participate.

KEY FINDINGS

- Five of the ten project areas that we sampled had significant fund balances, with millions in unexpended TIF funds.
- TIF project areas have varying levels of analyses. Most of the sampled project areas provided either blight analyses or benefit analyses. While these analyses are helpful in determining the presence of health/social problems and identifying the nature of investment, they do not adequately justify the use of TIF funds.
- Even though all agencies in our sample complied with the statutory requirement of establishing project area plans, none of the ten agencies were able to show evidence that project area plan objectives had been tracked. Furthermore, only four agencies were able to provide evidence that developer objectives had been tracked.

Information on TIF Revenues and Expenditures Should Be Extensive and Easily Accessible

TIF project areas in Utah could be improved by increased transparency, evaluation, and a more controlled reporting process. Overall, we found challenges associated with monitoring the performance and compliance of TIF project areas because receipts, expenditures, account balances, and fund transfers of individual project areas are not statutorily required reporting elements.

RECOMMENDATIONS

We recommend that the Legislature consider revising statute:

- To include guidance on managing unexpended TIF funds once a collection period expires.
- To require local governments to make financial information such as receipts, expenditures, account balances, and fund transfers publicly available for each project area.
- To require local governments to conduct a robust justification study known as a “but for” analysis that adequately justifies the use of TIF funds.

Summary continues on back >>

REPORT SUMMARY

To Prevent Unnecessary Use of TIF Funds, Justification Analyses Should Be Required

A best practice for providing justification for TIF assistance is called the "but for" analysis. The name comes from the assertion that the development would not occur "but for" the use of TIF funds. An effective "but for" clause can prevent communities from using TIF when other tools might be more helpful and transparent, or when no public investment is necessary to ensure an area is adequately developed. Therefore, agencies must have convincing evidence to show that TIF funds are necessary to make proposed developments. Evidence in the "but for" analysis may incorporate a variety of factors including the type and timing of development, as well as anticipated public benefits. While current statute requires an analysis of the anticipated public benefit resulting from project area development, we are concerned that this type of analysis does not adequately justify the use of the tax increment. Furthermore, not all analyses at the municipal level were conducted with equal consideration.

EDTIF Can Improve Its Project Audit and Justification Processes

The Governor's Office of Economic Opportunity (Go Utah) administers the EDTIF program, which uses post-performance tax credits to incentivize companies seeking to expand or relocate to Utah. Internal compliance auditors at Go Utah analyze company-reported sales tax data by inputting information into a statistical model. Acceptable error rates entered by Go Utah auditors contributed to large sample size variations. Our concern is that this inconsistent sampling method may result in inconsistent outcomes for companies receiving EDTIF tax credits. As such, we recommend that Go Utah establish written policies and procedures to guide sample selection.

Local Governments Should Monitor Progress Toward Project Area Goals and Long-Term Outcomes

To measure the success of a TIF project area, we considered three elements:

- Marginal increase of property tax base
- Completion of project area plan objectives
- Completion of developer agreement objectives

TIF project area plans, which contain development goals and objectives, are presented in a public setting. The intended outcomes are part of the reason taxing entities (such as school districts) opt to forego their tax revenue for a specified length of time. For this purpose, agencies should be more transparent about whether project area goals and objectives are being successfully tracked and met.

Redevelopment Agency	Increased Property Value?**	Evidence Project Area Plan Objectives Tracked?	Evidence Developer Objectives Tracked?
Holladay City	Y	N	Y
Ogden City	Y	N	N
Riverdale City	Y	N	N
West Jordan City	Y	N	Y
West Valley City	Y	N	N
West Bountiful City	Y	N	N
St. George City	Y	N	N
Sandy City	Y	N	Y
Spanish Fork City	Y	N*	N
Orem City	Y	N*	Y

* Indicates agencies that provided a detailed analysis of objective completion as a result of this audit.

REPORT TO THE
UTAH LEGISLATURE

Report No. 2022-10

A Performance Audit of
Tax Increment Financing

September 2022

Audit Performed By:

Audit Manager	Benn Buys, CPA
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Table of Contents

Chapter I
Introduction

Guiding a community's economic growth is an important government function that requires coordination with the private sector. Tax increment financing, or TIF, is an economic development tool designed to coordinate the actions of government and the for-profit sector by allocating revenue from property tax increases to fund development activities. TIF funds can be used for building infrastructure, acquiring or assembling parcels of land, paying developer incentives, and mitigating blight, among other things.

TIF is an economic development tool that allocates revenue from property tax increases to fund development activities.

Utah Code imparts administrative and oversight responsibilities of TIF project areas on community legislative bodies such as city/county councils or commissions. Since TIF is locally initiated and managed, the decentralized model makes it difficult to govern and manage at an aggregate level. For this reason, many of the recommendations in this audit report are addressed to the Legislature as policy considerations regarding their desired level of oversight.

The Economic Development Tax Increment Finance (EDTIF) tax credit is a separate program administered by the Governor's Office of Economic Opportunity (Go Utah). This program offers financial incentives for local and out-of-state companies seeking to expand or relocate to Utah. Tax credits or grants are issued to certain companies after contractual performance benchmarks are met, such as job creation, capital expenditure targets, and new state tax payments. EDTIF is discussed in detail in Chapter IV.

EDTIF offers financial incentives for companies seeking to expand or relocate to Utah.

This chapter serves as an introduction to tax increment financing, with a focus on TIF at the local level. It further explains the role of redevelopment agencies (agencies), how TIF funds can be used, and the amount of TIF revenues collected in Utah, by county, for calendar year 2020.

Tax Increment Financing As a Funding Source

TIF is an economic development tool that community legislative bodies (such as city councils) use to support economic development in designated areas. TIF project areas use property tax revenue increases (often called increments) that result when the TIF investment stimulates new development and real estate appreciation to fund development.

TIF can be used to pay developer incentives, installing or renewing infrastructure, or creating affordable housing.

In Utah, cities and counties primarily rely on general fund revenues and TIF funds to pay for their economic development projects. TIF is a flexible tool. While funding from TIF can be used to pay incentives, local governments can also use it for other economic development purposes such as installing or renewing infrastructure or creating affordable housing. Municipalities in Utah face diverse circumstances and goals. Some opt to focus on growth, while others focus on renewal or preservation. The following sections address the administration and governance of TIF, as well as the use of TIF funds.

The Role of Redevelopment Agencies

Redevelopment agency governing bodies are the same as the governing bodies of their founding cities or counties.

To use TIF funds, cities and counties need to work through a redevelopment agency. Agencies share the same geographical boundaries as their respective city or county. Additionally, agency governing bodies are statutorily the same as the governing bodies of their founding cities or counties (i.e., the city council or county council or commission). This means that agencies are made up of city/county council or commission members who also govern the agency. City employees typically staff redevelopment agencies. For example, a city manager can also be the agency's executive director.

Taxing entities forego property tax revenues for a specified length of time in exchange for promised improvements in the project area.

Under current statute, the agency board can create project areas and invite additional taxing entities, such as school districts, to sign interlocal agreements to participate in the economic development of a project area. Interlocal agreements allow agencies to negotiate with a taxing entity for all or a portion of the taxing entity's property tax revenue increases. Taxing entities opt to forego future property tax revenues for a specified length of time in exchange for promised improvements in the project area. Current statute allows each taxing entity to decide what portion of the increment it will contribute, and for how long.

Historically, TIF project areas have varied by purpose. For example, in the past, local governments could create economic development project areas, community development project areas, urban renewal project areas, and so forth. These project areas have various purposes, funding allocations, functions, and regulations. Under current legislation, local governments can only create community reinvestment project areas. That said, community reinvestment project areas can serve some of the same purposes allowed under previous legislation, such as the removal of blight. Additionally, many historical TIF project areas still exist (which will be discussed later in this report), and the specific purposes, powers, and requirements that initially governed these project areas continue to apply today. However, we focus on current statute to introduce the requirements for creating a new community reinvestment project area.

Historical TIF project areas still exist, and the specific requirements that initially governed these project areas continue to apply.

To initiate the process, the agency prepares a community reinvestment project area plan and budget, which includes, among other things, the following elements:

- A boundary description and map of the project area
- The standards guiding the development of the project area
- Development goals/objectives
- An analysis or description of the public benefit
- The projected amount of tax increment to be generated
- Increment collection periods
- The maximum cumulative dollar amount of tax increment that the agency is authorized to receive

The creation of project area plans and budgets allows agencies to determine project area scope, goals/objectives, and the use of TIF funds. Furthermore, the project area plan and budget are statutorily required to be available to the public for thirty days prior to a public hearing. The respective plan and budget hearings are required to be held in a public forum to allow for public comment and written/oral objection.

Project area plans and budgets are statutorily required to be available to the public.

How TIF Is Used

State legislation sets the conditions under which TIF project areas or districts may be established and subject to oversight. Community legislative bodies pass ordinances and resolutions to create the TIF project area and specify the project area's goals, allowed expenditures, and terms of operation. Revenues are then derived from property taxes on the appreciation, development, and redevelopment of the real estate within its borders.

Tax increment financing generally involves four broad steps:

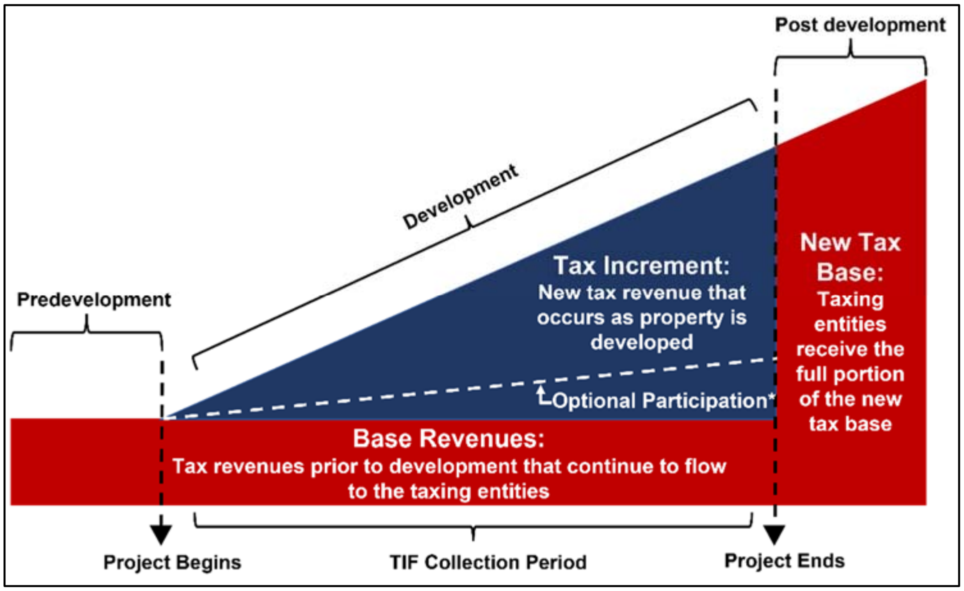
1. Establishing a physical project area.
2. Analyzing the baseline level of taxes that the project area produces.[1]
3. Earmarking or dedicating growth beyond the baseline (the increment) to pay for the area's economic development.[2]
4. After a specified milestone is reached (such as a time period, a property valuation level, or dollar value contributed), the TIF is completed, and the taxing entities can use the full tax value of the project area as they see fit.[3]

The growth of the value of the property over and above the base value generates the tax increment.

Figure 1.1 illustrates steps 2 through 4 of this process. The base value of the TIF project area is the value of the property at the time of project area creation (predevelopment). The property tax revenue paid on the base amount continues to flow to the various taxing entities as shown by the red "Base Revenues" block that extends across the bottom part of the figure. As development occurs, the assessed value of the property increases, as depicted by the dark blue triangular area of the figure (development). It is the growth of the value of the property over and above the base value that generates the tax increment. After project area development is complete, taxing entities receive the full portion of property tax revenues as shown by the red "New Tax Base" column in the post development phase of Figure 1.1.

[1] See predevelopment phase in Figure 1.1.
[2] See development phase in Figure 1.1.
[3] See post development phase in Figure 1.1.

Figure 1.1 Basic TIF Model. Property taxes prior to development continue to flow to the various taxing entities as base revenues. As development occurs and the assessed value of the property increases, the tax increment (represented by the dark blue triangle), is collected by the agency for development purposes.



Source: Auditor generated
** Taxing entities (such as school districts) have the option to select their level of participation. For example, a taxing entity may opt to participate at a rate of 85 percent, meaning that 85 percent of the tax increment would be retained by the agency for TIF purposes, and 15 percent would be returned to the taxing entity.*

To further illustrate this concept, we refer to a project area randomly selected as part of our sample—the West Jordan City Data Center Economic Development Project Area. County records indicate that the base value of the property prior to development was $6,732, which generated a predevelopment tax revenue of $34.07 in 2007. After construction on the data center was complete, the year-end taxable value of the property in 2020 was about $107.6 million, as reported by the Utah State Tax Commission. From calendar years 2012 to 2021, the West Jordan City Redevelopment Agency collected about $11.5 million in property tax revenue (TIF funds). The participating taxing entities in this project area included:

- Central Utah Water Conservancy District
- Jordan School District
- Jordan Valley Water Conservancy District
- Salt Lake County
- South Salt Lake Valley Mosquito Abatement
- West Jordan City

Participating taxing entities can include school districts, the city, the county, and conservancy districts.

TIF funds can be used for removing blight, assembling land, building infrastructure, and incentivizing developers.

In this example, the taxing entities participated at a rate of 85 percent. In other words, the taxing entities agreed to forego 85 percent of the associated property tax revenue increases to promote development in the project area. Specific uses of the TIF funds for this particular project area are detailed in Chapter II of this audit report.

Agencies use TIF funds for a variety of reasons such as removing blight, assembling land, building infrastructure, and incentivizing developers. Statute[4] allows TIF funds to be used for:

- Administrative, overhead, legal, or other operating expenses, including consultant fees
- Project area development, including environmental remediation activities
- Housing-related expenditures
- Incentives
- Installation and construction of any publicly owned building, facility, structure, landscaping, or other improvements within the project area
- Installation of publicly owned infrastructure and improvements outside the project area (with a resolution)
- Reimbursement for the construction of roads, bridges, overpasses, railroad tracks, or railroad facilities
- Transfer funds to a community that created the agency, or agency-wide project development

Data regarding the amount local governments spend on each of the aforementioned items are limited. Data integrity and transparency issues are also discussed in Chapter II of this report.

TIF Revenues by County for Calendar Year 2020

TIF project areas received nearly $205 million in property tax revenues in calendar year 2020.

Data from the Utah State Tax Commission provide details on 246 project areas in Utah that are actively receiving TIF funds from participating taxing entities. Collectively, these project areas received nearly $205 million in property tax revenues in calendar year 2020. Conversely, the state-level EDTIF program distributed roughly $24.4 million in tax rebates in 2019 to help foster and develop key industry sectors in Utah. From an auditor's perspective, risks are typically assessed against cost. Because local TIF and state EDTIF amounts vary by more than $180 million, this audit report largely focuses on

[4] *Utah Code 17C-1-409.*

tax increment financing at the local level—with the exception of Chapter IV, which provides a brief assessment of the state's EDTIF program.

Figure 1.2 illustrates the amount of local property tax revenues paid as TIF funds to redevelopment agencies (municipalities), grouped by their respective counties.

Figure 1.2 Property Tax Revenues Paid to Redevelopment Agencies, by County. Agencies in Salt Lake County account for 62 percent of the property tax revenue paid as TIF funds to redevelopment agencies in calendar year 2020.

County	Total Increment Paid**	% Of Total
Salt Lake*	$127,088,250	62.0%
Utah*	29,135,558	14.2
Davis*	12,280,319	6.0
Weber*	9,710,026	4.7
Washington*	2,950,789	1.4
All Other Counties	23,717,208	11.6
Total	**$204,882,150**	**100%**

Source: Utah State Tax Commission
** Indicates a county with a "Class 1" or "Class 2" designation. Sampled TIF project areas were drawn from Class 1 and Class 2 counties.*
*** These totals do not include tax increment from the Military Installation Development Authority, Utah Inland Port Authority, or the Convention Center Hotel.*

Figure 1.2 differentiates Class 1 (Salt Lake) and Class 2 (Utah, Davis, Weber, and Washington) counties[5] from all other county class designations in the state. The audit request letter specifically asked for sampled case studies in Class 1 and Class 2 counties.

Ten project areas were randomly selected for our sample.

Working with the Utah State Tax Commission, our audit team obtained a comprehensive list of expired/completed TIF project areas over the last five calendar years.[6] Of these, ten project areas were

[5] ***Utah Code 17-50-501*** defines a county with more than one million residents as a Class 1 county and a county with a population of more than 175,000 and less than one million as a Class 2 county.
[6] Not all project areas in the sample were found to be completed or dissolved as requested. Accordingly, data integrity issues are discussed in Chapter II.

randomly selected for the sample.[7] The sample size for each county is directly proportional to the number of projects in that county. For example, Salt Lake County accounted for 37 percent of all project areas listed in the data; therefore, four of the ten TIF project areas were drawn from Salt Lake County. The sample breakdown is as follows:

- 4 TIF project areas from Salt Lake County
- 2 TIF project areas from Utah County
- 2 TIF project areas from Weber County
- 1 TIF project area from Davis County
- 1 TIF project area from Washington County

This audit report examines local TIF and state EDTIF administration, oversight, and reporting practices.

Our audit team also reviewed four EDTIF project areas at the state level. This audit report examines local TIF and state EDTIF administration, oversight, and reporting practices. The team used an analytical framework to evaluate whether these development programs are used in a manner that is strategic, effective, efficient, and transparent. Case studies and examples address legislative concerns regarding how effectively these project areas are accomplishing their intended outcomes.

Audit Scope and Objectives

The purpose of this audit report is to examine the administration and overall success of tax increment financing programs in the state of Utah. It provides recommendations to enhance transparency, accountability, and oversight of these programs. Based on the legislative audit request letter, along with issues identified during our initial review, the scope of the remaining chapters addresses the following questions:

- **Chapter II**: Are local tax increment financing project areas sufficiently transparent, and is there merit to the TIF model as an effective tool for public entities in the state?

- **Chapter III**: Do predevelopment analyses appropriately predict and align with post development outcomes, and

[7] See Appendix B for a complete list of sampled project areas and related project area information.

do local TIF project areas set measurable objectives and achieve desired outcomes?

- **Chapter IV**: Are there administrative improvements that could be made to the state's EDTIF program, and does EDTIF adequately justify the use of funds?

Chapter II
Local Governments Should Be More Transparent Regarding Tax Increment Financing Project Areas

We were asked to evaluate the overall success of tax increment financing (TIF) as a tool for municipalities to incentivize economic development. To accomplish this task, we reviewed past project area plans, assumptions, analyses, and outcomes from a random sample of ten case studies within Class 1 and Class 2 counties. Unfortunately, the lack of transparency and accountability observed in these cases limited our ability to provide a clear answer on whether TIF project areas accomplished their intended outcomes. In this chapter, we emphasize transparency measures to ensure redevelopment agency (agency) responsibility to Utah legislators and taxpayers. In Chapter III, we focus on agency accountability measures to determine the overall success and effectiveness of TIF project areas.

The lack of transparency and accountability limited our ability to determine whether TIF project areas accomplished their intended outcomes.

TIF project areas in Utah could be improved by increased transparency, evaluation, and a more controlled reporting process. Overall, we found challenges associated with monitoring the performance and compliance of TIF project areas because receipts, expenditures, account balances, and fund transfers of individual project areas are not statutorily required reporting elements. Furthermore, agencies are not required to demonstrate whether future project area development would occur solely through private investment—which essentially eliminates the need to justify the use of TIF funds. This chapter examines ten project areas to provide the Legislature with needed information and recommendations for consideration.

Agencies are not required to demonstrate whether future project area development would occur solely through private investment.

Information on TIF Revenues and Expenditures Should Be Extensive and Easily Accessible

Local governments should provide extensive, easily accessible information about TIF uses, revenues, and expenditures. Such information will enable local officials to monitor the use of TIF funds and provide transparency to the public and to participating taxing entities. Increased transparency is essential because taxing entities divert tax revenue to redevelopment agencies for development purposes. Bolstering transparency by project area also allows for the consistent evaluation of the use of TIF funds and encourages approved spending, promotes statutory compliance, and increases accuracy in required reporting elements.

Five TIF Project Areas Collectively Have More Than $17.2 Million in Unexpended TIF Funds

Five of the ten project areas that we sampled had significant fund balances.

Five of the ten project areas that we sampled had significant fund balances, with millions in unexpended TIF funds. TIF funds are tied to interlocal agreements, publicly approved budgets, and contractual obligations such as developer or participation agreements. Considering the perspective of a taxing entity, fund balances are concerning, because taxing entities opt to forego their tax revenue in exchange for promised improvements in the project area. A fund balance calls into question whether contractual obligations and project area objectives have been met, and whether there is an excess of tax increment. While statutory provisions for collection periods and collection limits vary by project area type, statute does not govern the use of TIF funds once a collection period expires. The following paragraphs summarize the financial details of the five TIF project areas that have significant fund balances.

The Sandy City Redevelopment Agency collected tax revenues in excess of the budgeted amount by nearly 293 percent.

Sandy
HEART OF THE WASATCH

Sandy City South Towne Ridge Economic Development Project Area. The Sandy City Redevelopment Agency collected $19.5 million in TIF funds for this project area from 2005 to 2019. The original budget for this project area was adopted at $6.7 million, which means collected tax revenue exceeded the budgeted amount by nearly 293 percent. The current fund balance for this project area is $7.8 million, with slightly more than one million of that total set aside for affordable housing. We question whether excess TIF funds were needed to complete project area goals and objectives, or whether this project area could have been dissolved sooner. The agency reports allocating the remaining funds to the Capital Facilities Finance Plan budget for improvements, such as a road extension into the project area. The Sandy City Redevelopment Agency also reports that expenditures beyond the budgeted amount have been aligned with project area plan objectives. In 2019, the Legislature changed statute to allow taxing entities to select their level of contribution for new project areas by specifying either a participation percentage or a maximum cumulative dollar amount. This statutory change may remedy future TIF fund collections by ensuring that collected amounts do not significantly exceed project area budgets.

West Jordan City Data Center Economic Development Project Area. The total TIF funds collected on this project area, from 2012 to its expiration in 2021, was about $11.5 million. The current fund balance for this project area is nearly $6.1 million (or 53 percent of the total increment collected). Aside from developer incentives and administrative costs, no TIF funds have been spent to improve the project area. That said, the agency has a capital project plan, including $3.5 million in public improvements to the project area and the surrounding industrial area, which will take place in the next twelve to twenty-four months. Of the $6.1 million fund balance, $3.6 million is contractually intended to be spent on public and private infrastructure improvements, site improvements, grants and loans/bonds, and other financing costs. Although the data center has been completed and is operational, the agency has not yet used the remaining TIF funds to meet these contractual obligations.

The current fund balance for the West Jordan City project area is nearly $6.1 million.

Holladay City Olympus Economic Development Project Area. The total TIF funds collected for this project area, from 2007 to 2021, was slightly more than $10 million. A little more than $2 million (20 percent) has been set aside for affordable housing as required by ***Utah Code***.[8] Currently, the housing portion of the tax increment is being retained by the agency, which is working on a plan to use the funds at some future date. We are concerned that the agency has not spent any of the TIF funds on affordable housing, and that no specific projects have been identified.

The housing portion of the tax increment has not been spent in the Holladay City project area.

West Valley City Granger Crossings Urban Renewal Project Area. The total TIF increment collected on this project area, from 2012 to 2020, was about $1.3 million. The current fund balance for this project area is just over $850,000. Aside from developer incentives, administrative costs, and the required housing allocation, no TIF funds have been spent to improve the project area. However, the West Valley Redevelopment

The West Valley City Redevelopment Agency has $850,000 in unspent TIF funds out of $1.3 million collected.

[8] ***Utah Code 17C-3-202(2)(a).***

Agency states that they are committed to spending the remaining tax increment in the project area, which is set to expire in 2026.

Ogden City Hinckley Airport Redevelopment Project Area. The Ogden City Redevelopment Agency collected nearly $2.8 million on this project area between tax years 2005 and 2021. The agency has spent $2.2 million on developer incentives and $138,000 on administrative expenses. Apart from these expenditures, the agency has not spent any of the remaining funds on project area activities or improvements. The fund balance for this project area is roughly $439,000 with the remaining tax increment purportedly reserved in District Contingency for additional airport infrastructure needs.

The Ogden City Redevelopment Agency has only spent TIF funds on developer incentives and administrative expenses.

While these examples do not violate statute, statutory amendments could address the lack of consistency on how excess TIF funds are treated. For example, the Fort Pierce Economic Development Project Area in St. George City returned nearly $1.6 million in excess TIF funds to participating taxing entities, rather than retaining them. In this case, the interlocal agreement stated, "The Agency agrees to only take the tax increment necessary to meet the terms and commitments outlined in this agreement and the adopted budget." Therefore, once all financial obligations were met, excess revenues were annually evaluated and distributed back to the taxing entities. In this example, excess tax revenue was partially created because one of the incentivized developers on this project area ceased continuous operations and closed. The closure led to the termination of all employees, which effectively canceled the developer's eligibility to receive the TIF incentive.

Surrounding states provide guidance on how to treat excess TIF funds.

Surrounding states, such as Wyoming and Colorado, provide insights into excess TIF funds, including the dissolution or abolishment of project areas. Wyoming statute states:

> When any loans, advances and indebtedness, if any, and interest have been paid in full, all monies thereafter received from taxes upon the taxable property… shall be paid into the funds of the various taxing agencies as taxes on all other property are paid.[9]

[9] Wyoming Statute 15-9-120(a)(ii).

Similarly, statute in Colorado provides for the abolishment of an urban renewal TIF district (project area) only after adequate arrangements have been made for the payment of any outstanding indebtedness and other obligations of the authority. Upon settling project area debt (or the expiration of the twenty-five-year TIF period), statute in Colorado requires any property tax revenue remaining in the special fund to be repaid to each affected taxing entity (except for the municipality) in the ratio contributed during the previous year when the assessment roll was divided.[10]

***Utah Code* does not address the management of excess or unspent TIF funds.**

Utah Code does not address the management of excess TIF funds or unspent funds upon collection period expiration or project area dissolution. To encourage consistency and best practices across the state, we recommend that the Legislature consider revising statute to include guidance on managing unexpended TIF funds once a collection period expires.[11] Based on our audit process, redevelopment agencies are generally supportive of this recommendation; however, some agencies expressed concerns about whether the time allotted to spend the funds would be too restrictive. Adequate time should be provided for spending because construction may surpass TIF collection periods by several years. That said, we believe spending plans should be in place to ensure that spending occurs in the project area and that project areas are dissolved within a reasonable time frame.

One TIF Project Area's Spending Pattern Did Not Comply with Statute

An economic development project area budget must be approved in a public hearing.

One of the sampled TIF project areas violated statute by spending beyond the publicly approved budget. *Utah Code* clearly demonstrates the importance of spending within the proposed project area budget. For example, an economic development project area budget must be approved in a public hearing, and a copy of the approved budget must be sent to each taxing entity that is affected by the agency's collection of the tax increment. Moreover, statute requires the project area to seek the approval of a taxing entity committee and obtain a written certification, signed by an attorney, verifying that appropriate procedures to approve the budget have been taken. Although TIF is

[10] CRS 31-25-107 (9)(a).

[11] *Utah Code* does not provide a timeline regarding project area dissolution; however, since project areas can be dissolved for a myriad of reasons, creating a timeline using TIF collection periods appears to be more practical.

The West Jordan City project area exceeded its allowable administrative expenses by 30 percent.

Reporting expenditures by individual project area is not required.

designed to be locally initiated and managed, we are concerned with the lack of compliance, oversight, and transparency in the following example.

The West Jordan City Data Center Economic Development Project Area exceeded its allowable administrative expenses by 30 percent. Over the ten-year life of the project area, the approved budget allocated 2.5 percent ($294,872) of the total tax increment to administrative expenses; however, actual administrative expenses totaled 3.6 percent, or $419,974. This overage occurred without a resolution or an approved budget amendment, as required by statute. Amendments to the budget are required to be accompanied by a resolution, and the amendment process should follow many of the same steps as the original budget approval process, including a public hearing. When questioned about the overage, the West Jordan Redevelopment Agency acknowledged that the overspending should not have occurred and was likely not approved.

In the 2019 Legislative General Session, the Legislature amended statute to require agencies to report project area information to a collective database created and maintained by the Governor's Office of Economic Opportunity (Go Utah). Even though project area budgets are a required reporting element, reporting expenditures by individual project area is not required.[12] To increase transparency and the ability to track and monitor compliance, we recommend that the Legislature consider revising statute to require local governments to make financial information such as receipts, expenditures, account balances, and fund transfers publicly available for each project area.

The Level of TIF Expenditure Reporting Varies by Redevelopment Agency

Utah Code[13] requires redevelopment agencies to independently track property tax revenues (TIF funds) in a separate fund. Revenues and expenditures for the fund (not for individual project areas) must be reported annually to the state auditor. Therefore, a common practice among redevelopment agencies is to collectively track and report revenues and expenditures for all project areas without regard for specific project area information. This practice introduces potential

[12] Discrepancies between agency-reported data and data housed by the Utah State Tax Commission are discussed later in this chapter.
[13] ***Utah Code 17C-1-1005(3).***

risks such as noncompliance, the opportunity to misuse funds, and the inability to readily determine how individual project area funds are spent. The lack of transparency and documentation prevented us from addressing specific issues identified in the legislative audit request letter. More specifically, questions regarding compliance, and whether project areas are accomplishing their intended purposes, could not be answered for all aspects of the project areas we sampled.

Furthermore, annual reports do not share a common formatting standard. This means that revenues and expenditures are categorized in different ways and often do not specify funding for infrastructure development or financial incentives. Moreover, some agencies include expenditures in their annual reports, while others do not. The lack of standardization in reporting illustrates the difficulty in gathering data to understand how agencies are using TIF funds in Utah. The following examples further illustrate the gaps in expenditure reporting between two different redevelopment agencies.

Riverdale City 1050 West Neighborhood Redevelopment Project Area. The Riverdale City Redevelopment Agency was not able to provide an accurate accounting of expenditures for a project area that began collecting TIF funds in 1997. We received an "educated guess" of $8.1 million in TIF expenses for this project area. The lack of documentation in this example prevents us from determining compliance with spending requirements in statute and whether project area improvements were completed as promised. The agency cites various challenges for not being able to provide an accurate accounting, such as switching accounting software and the 10-year retention requirement of state archive laws. That said, we were encouraged to find that the practice of coding and reporting expenditures by individual project area has been implemented by the agency for more recent project areas.

The Riverdale City Redevelopment Agency was not able to provide an accurate accounting of expenditures for a 1997 project area.

Spanish Fork City Kirby Lane Redevelopment Project Area. The Kirby Lane project area, which began collecting TIF funds in 1995, had just over $8.1 million in project area expenses. However, unlike the Riverdale City Redevelopment Agency, the Spanish Fork City Redevelopment Agency was able to provide transaction-level detail for expenditures spanning all twenty-five years the project area was active.

The Spanish Fork City Redevelopment Agency was able to provide transaction-level detail for expenditures for a 1995 project area.

Transaction-level detail provides increased transparency and accountability to participating taxing entities.

Because these project areas were both approved prior to June 30, 1993, they were not required by statute to submit a project area budget. The absence of a budget combined with Riverdale's inability to provide an accurate accounting for project area expenditures raises concerns about the level of risk (e.g., fund misappropriation) and transparency associated with the Riverdale City project area. Furthermore, current statute does not require individual project area expenditures to be reported. To promote transparency and mitigate future risk, we recommend that local officials report expenditures by TIF project area, including infrastructure development and incentives. The method of reporting should include options such as (1) coding expenditures by individual project area in annual state auditor reports, or (2) reporting expenditures by project area to the database maintained by Go Utah.

Current statute does not require individual project area expenditures to be reported.

Although Go Utah maintains a database to centralize annual report data, the current participation rate is a modest 54 percent. More specifically, forty-five of ninety-seven redevelopment agencies have not contributed project area information to the database, despite the statutory requirement to do so. We identified at least one agency in our sample that was not actively participating. While statute requires agencies to report information to the database, there is no reward or penalty for participation. Still, the lack of oversight and compliance with this requirement is concerning. We recommend that Go Utah publish a list of noncompliant agencies on its website and report the number of noncompliant agencies to the Legislature on an annual basis.

The current participation rate in the Go Utah database is 54 percent.

Agency Annual Report Data Does Not Match State Tax Commission Data

The Utah State Tax Commission houses a database of TIF project areas and related information. Because the database is primarily used to calculate certified tax rates, the tax commission does not need to have the same level of data as the county. However, if there are discrepancies between county data and tax commission data, steps are taken to verify what is being reported. While the tax commission reports progress on data validation efforts, there are still some system limitations and issues with reporting consistency.

When comparing tax commission data with agency data, we found instances where metrics listed in agency annual reports did not match the data in the tax commission's database. Such discrepancies are concerning because agency annual reports are public-facing documents. For example, one redevelopment agency reported the base value of a project area to be $56,709,341, while the tax commission recorded a base value of $56,728,577. Assuming the tax commission's base value is correct, any project area growth listed in the agency's annual report would be inflated by about nineteen thousand dollars.

We found instances where metrics listed in agency annual reports did not match the data in the Utah Tax Commission database.

We also observed instances of data discrepancies between the total amount of TIF funds paid, the total taxable value of the project area, the marginal increase (growth), and the creation year. We believe that by reporting this information to the Go Utah database, further transparency will be achieved, and future discrepancies will be more easily resolved.

To Prevent Unnecessary Use of TIF Funds, Justification Analyses Should Be Required

Tax increment financing benefits municipalities by encouraging development that would not occur without TIF assistance. A best practice for providing justification for such assistance is called the "but for" analysis. The name comes from the assertion that the development would not occur "but for" the use of TIF funds. According to the Minnesota House Research Department, the "but for" test is generally thought to have two purposes: (1) to prevent the excessive and unnecessary use of TIF, and (2) to protect the taxing entities. For example, if authorities use TIF for developments that would occur anyway, then tax revenue is diverted from taxing entities (such as counties and school districts) to redevelopment agencies. Therefore, agencies should have convincing evidence to show that TIF funds are necessary to make the proposed development possible. Evidence in the "but for" analysis may incorporate a variety of factors including, the type and timing of development, as well as anticipated public benefits.

The "but for" test helps prevent the unnecessary use of TIF funds.

Utah Statute Does Not Require a Justification Analysis

Prior to the creation of a TIF project area, some states require proof that the planned development would not occur "but for" the use of TIF funds. Historically, ***Utah Code*** required some form of justification for urban renewal (blighted) project areas and economic development project areas. The requirement for these two project area types was to provide "the rationale for the use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment."[14] However, as of 2016, the same level of analysis is not required in statute. While current statute requires an analysis of the anticipated public benefit resulting from project area development, we are concerned that this type of analysis does not adequately justify the use of the tax increment.

"But for" analyses are not required in statute.

In working with the Utah State Tax Commission, our audit team obtained a comprehensive list of expired or completed TIF project areas over the last five calendar years.[15] Ten project areas were selected at random for the sample. The sample includes four economic development project areas that were statutorily required to provide rationale for the use of TIF funds. However, not all analyses at the municipal level were conducted with equal consideration, as demonstrated by the examples below.

Holladay City Olympus Economic Development Project Area. The Holladay City Redevelopment Agency conducted a study highlighting office space on the market—availability, vacancy, new space under lease, and vacancy rates by classification. The analysis concluded that the project area must provide high-quality office space at a competitive price to be successful and compete with the private sector.

The Holladay City Redevelopment Agency conducted a study highlighting office space available to justify the use of TIF funds.

West Jordan City Data Center Economic Development Project Area. Rationale for this project area included the following statement: "Incentive proceeds will be used to offset the higher electrical costs, increased tax liability and more expensive development costs as compared to the competitor locations for the project. Without the provision of economic development incentives, the project would not be able to move forward, and the company would be required to

[14] ***Utah Code 17C-2-103(2)(iii)*** (urban renewal project areas) and ***Utah Code 17C-3-103(2(iii)*** (economic development project areas).

[15] Not all project areas in the sample were found to be completed or dissolved as requested. Accordingly, data integrity issues are discussed in a previous section of this chapter.

invest capital and create jobs in another state." While this statement meets the statutory requirements in place at the time, we believe that publicly available information does not adequately justify the use of TIF funds. For example, public documents give no consideration to anticipated development without the tax increment, or whether the benefits of using TIF funds outweigh the tax revenues that taxing entities are giving up.

Public documents for the West Jordan City project area give no consideration to anticipated development without the tax increment.

Overall, we found that TIF project areas have varying levels of analyses. Most of the sampled project areas provided either blight analyses or benefit analyses. While these analyses are helpful in determining the presence of health/social problems and identifying the nature of the investment, they do not adequately justify the use of TIF funds. An effective "but for" clause can prevent communities from using TIF when other tools might be more helpful and transparent, or when no public investment is necessary to ensure an area is adequately developed. We recommend that the Legislature consider revising statute to require local governments to conduct a robust "but for" analysis that adequately justifies the use of TIF funds. From our review, it appears that redevelopment agencies are generally supportive of this recommendation. However, concerns were expressed regarding the upfront costs of conducting a "but for" analysis on project areas prior to approval. Agencies also identified the challenge of additional administrative costs, and the ability to recover those costs in cases where project areas are not approved. A remedy may include determining a tax revenue (TIF fund) collection threshold, or a taxing entity participation percentage threshold that would trigger the need for a "but for" analysis.

A "but for" clause can prevent communities from using TIF when other tools might be more helpful and transparent.

A Justification Analysis Could Reduce Reliance on TIF

In practice, and as seen by the examples in the previous section, the "but for" justification can be interpreted in a variety of ways. Therefore, if the Legislature desires to amend statute to include a "but for" requirement, we recommend clearly defining the parameters of the "but for" requirement to ensure reliable justifications of TIF use. To provide some preliminary guidance, we looked at associated statutes, requirements, and best practices in other states.

Colorado. The use of TIF funds is restricted to urban renewal projects (blighted areas) that require a "but for" test. Before a project area is created, the municipality must find that, in absence of the proposed activities, the blight is likely to remain, and the project area is not likely to generate additional tax revenue.

Wisconsin.[16] Statute requires a review board to consider three "but for" criteria: (1) whether the development expected in the project area would occur without the use of TIF, (2) whether the economic benefits of the project area (e.g., increased employment, income, and property value) are sufficient to compensate for the cost of the improvements, and (3) whether the benefits outweigh the anticipated tax increments to be paid by the owners of the property.

Other states require different types of "but for" analyses.

New Mexico. A TIF briefing released by the Environment New Mexico Research and Policy Center found that the failure to meet "but for" standards resulted in revenues captured, not created. The report concludes, "In the case of greenfield fringe development, the state is subsidizing low-risk development that would likely have occurred anyway. In this case, the added tax revenue is being captured, not leveraged or created, and state and local governments lose tax [revenues] that could have gone to other uses." The briefing identified this issue as a financial concern in need of improvement.

Minnesota. Statute requires municipalities to satisfy two basic components of the "but for" test: (1) prove that the development would not happen solely through private investment in the "reasonably foreseeable future," and (2) demonstrate that the induced development will yield a net increase in market value for the site compared against the likely development that would occur without the use of TIF funds. To satisfy these requirements, Minnesota municipalities must make the "but for" finding in writing and must set out the reasons and supporting facts for the finding. According to Minnesota state statue, these statements must explicitly include the dollar amount of the municipality's alternative market value estimates.[17] An example of this concept is illustrated in Figure 2.1.

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[16] Wisconsin and Minnesota were selected for comparison based on a Lincoln Institute of Land Policy study that was provided by the International Economic Development Council.

[17] Minnesota Statutes 469.175, subdivision 3(b).

Figure 2.1 Net Increase in Market Value. Statute in Minnesota requires municipalities to compare two values: (1) the increase in market value of "the site" that would be reasonably expected to occur without using TIF, and (2) the increase in market value of the proposed TIF development, minus the present value of the TIF assistance. This example from the Minnesota House Research Department shows a development that would not be a good candidate for TIF, despite the higher value that results after development (line 2).

	Development w/o TIF	Development w/ TIF
1. Base Value of Area	$20,000,000	$20,000,000
2. Value After Development	110,000,000	125,000,000
3. TIF Assistance	0	16,000,000
4. Net Increase in Value (=2-1-3)	**$90,000,000**	**$89,000,000**

Source: Minnesota Legislature

Similar to the calculations shown in Figure 2.1, a leverage ratio was proposed by Sandy City as rationale for the use of TIF funds. The leverage ratio is derived by dividing the amount of private investment by the amount of tax increment contributed. The leverage ratio is then compared with that of other federal economic development programs to determine its reasonableness. For example, the benefit analysis calculated the leverage ratio for Sandy City's South Towne Ridge Economic Development Project Area to be 17 to 1 and represented this ratio as maximizing private investment. Moreover, a Salt Lake County TIF Policy Evaluation, published in April 2021, reports that

A benefit analysis using a leverage ratio was conducted for the Sandy City project area to justify the use of TIF funds.

> Utah TIF statute (Title 17C) requires many of the same qualitative findings and process elements found in other states… However, Utah does not require a finding of blight or an assessment that development would not occur "but for" the TIF district, the most common criteria for TIF creation across other states. If the County wishes to focus its TIF participation on interventions that solve market failures and catalyze investment, it can utilize some of the quantitative assessments common in other states to demonstrate blight and/or prove a "but for."

The TIF Policy Evaluation concludes that there appears to be a willingness to develop additional due diligence for participation in project areas. Many Utah municipalities already perform a range of

Many Utah municipalities already perform assessments to make the best use of local revenues.

assessments to make the best use of limited local revenues for economic development. However, the evaluation reported that municipalities would like a clearly defined process that outlines required documentation and analyses. Therefore, we recommend that the Legislature consider requiring a "but for" analysis for TIF project areas.

Recommendations

1. We recommend that the Legislature consider revising statute to include guidance on managing unexpended TIF funds once a collection period expires.

2. We recommend that the Legislature consider revising statute to require local governments to make financial information such as receipts, expenditures, account balances, and fund transfers publicly available for each project area.

3. We recommend that local officials report TIF project area expenditures, including infrastructure development and incentives, by (1) coding expenditures by individual project area in annual state auditor reports, or (2) reporting expenditures by individual project area to the database maintained by the Governor's Office of Economic Opportunity.

4. We recommend that the Governor's Office of Economic Opportunity publish, on its website, the list of agencies that do not report required project area information to the database and report the number of noncompliant agencies to the Legislature on an annual basis.

5. We recommend that the Legislature consider revising statute to require local governments to conduct a robust justification study known as a "but for" analysis that adequately justifies the use of TIF funds.

Chapter III
Local Governments Should Monitor Progress Toward Project Area Goals and Long-Term Outcomes

The legislative audit request letter outlined four areas of consideration regarding tax increment financing (TIF) project areas in Utah. Specifically, we were asked to conduct a performance audit to determine whether this development tool has yielded successful results and agreed-upon outcomes for project areas in Utah. To measure the success of a TIF project area, we considered three elements:

We were asked to determine whether TIF project areas have yielded successful results and agreed-upon outcomes.

- Completion of project area plan objectives
- Completion of developer agreement objectives
- Marginal increase of the property tax base

To determine overall project area success, we reviewed project area plans and developer agreements for certain standards, purposes, goals, and objectives. We worked with each of the agencies in our sample to confirm whether the agreed-upon parameters had been adequately tracked and completed. We also examined tax commission data to determine the marginal increase of the property tax base. Statute requires redevelopment agencies (agencies) to report the percentage change in marginal value of the property, as well as a narrative description of the relative growth in assessed value. We recognize marginal growth as a required reporting element and an important measure of success. However, as discussed in Chapter II, agencies should also complete justification analyses that adequately support the use of TIF funds as the best method for increasing property values.

While reviewing project area plans and developer agreements, we found instances where objectives were vague and unmeasurable, which made it difficult to determine whether these objectives had been met. Alternatively, we worked with agencies to gather evidence that project area plan objectives and developer objectives had been recognized and tracked throughout the life of the project area. Figure 3.1 displays the results of the analysis conducted by our audit team.

We found instances where TIF objectives were vague and unmeasurable.

Figure 3.1 TIF Project Area Success Should Consider Progress Toward Goals and Long-Term Outcomes. All project areas were successful in increasing property values; however, not all project areas adequately justified the use of TIF funds or were able to show evidence that objectives had been tracked.

Redevelopment Agency	Increased Property Value?**	Evidence Project Area Plan Objectives Tracked?	Evidence Developer Objectives Tracked?
Holladay City	Y	N	Y
Ogden City	Y	N	N
Riverdale City	Y	N	N
West Jordan City	Y	N	Y
West Valley City	Y	N	N
West Bountiful City	Y	N	N
St. George City	Y	N	N
Sandy City	Y	N	Y
Spanish Fork City	Y	N*	N
Orem City	Y	N*	Y

Source: Auditor generated
** Indicates agencies that provided a detailed analysis of objective completion as a result of this audit.*
*** Although this required reporting element is a recognized measure of success, agencies should also adequately justify the use of TIF funds, as discussed in Chapter II.*

Agencies should be more transparent about whether project area goals and objectives are being successfully tracked and met.

TIF project area plans, which contain development goals and objectives, are presented in a public setting. The intended outcomes are part of the reason taxing entities opt to forego a portion of their tax revenue for a specified length of time. For this purpose, agencies should be more transparent about whether project area goals and objectives are being successfully tracked and met.

TIF Project Area Performance Metrics and Objectives Lack Accountability

Goals and objectives in an agency's project area plan should ideally be related to developer benchmarks.

Project area plans established by redevelopment agencies include *development* objectives, which we found often differ from *developer* objectives (what developers must satisfy to qualify for the TIF incentive). When developer objectives do not correspond with the development objectives of the project area plan, it creates a situation where the tax increment may not be spent according to the publicly agreed-upon parameters. While the goals and objectives in an agency's written plan are likely not the same as the benchmarks a developer must meet to qualify for an incentive, they should ideally be related. Moreover, we found multiple redevelopment agencies paying TIF incentives to developers without providing evidence that qualifying objectives were met. Examples are provided in the following section.

Local Governments Cannot Provide Evidence That TIF Objectives Have Been Met

Although statute requires a project area plan to describe the goals, standards, or strategies that will guide the agency's use of TIF funds, there is no specific statutory provision to track whether they have been met. Even though all agencies in our sample complied with the statutory requirement of establishing a project area plan, none of the ten agencies were able to show evidence that project area plan objectives had been tracked. Furthermore, only four agencies were able to provide evidence that developer objectives had been tracked, as shown in Figure 3.1.

None of the ten agencies were able to show evidence that project area plan objectives had been tracked.

To be clear, this is not an issue of statutory compliance. However, TIF project area plans contain goals and objectives that are presented in a public setting and are part of the reason taxing entities opt to forego a portion of their tax revenue. Additionally, developer agreements often require certain objectives to be met prior to receiving TIF incentives. For these purposes, we believe it is important that agencies be held accountable for accomplishing what they stated they would accomplish in the project area plan.

It is important that agencies be held accountable for accomplishing what they stated they would accomplish in the project area plan.

While discussing this issue with agencies during the audit process, more than one agency stated that some objectives were not measurable—a concern that is addressed later in this chapter. Below are several examples of project areas where TIF funds were paid without documentation of project area objectives being met.

WVC WEST VALLEY CITY UTAH

West Valley City Granger Crossings Urban Renewal Project Area. This project area was the only urban renewal project area in our sample. The purpose of urban renewal project areas is to remedy and prevent slum and blighted conditions. Developer incentive agreements for this project area required that the developer provide the agency with annual reports no later than thirty days after the end of each calendar year. Although job creation is not the focus of an urban renewal project, the developer agreement states that annual reports must contain (a) the total number of jobs within the site; (b) the type of jobs and relative wages within

The developer for a West Valley City project area did not provide information regarding job type, relative wages, or source of the jobs as required by contract.

the site; and (c) the source of jobs within the site (i.e., whether the jobs are new jobs or existing jobs that have moved to the site). Aside from simple job counts, the agency reports that the developer did not provide any additional information regarding job type, relative wages, or source of the jobs. Despite the lack of required documentation, $145,000 in developer incentives was paid in full by August 2014 for this project area.

We were not able to verify all aspects of phase completion in a West Bountiful project area due to a lack of documentation.

West Bountiful City Commons Redevelopment Project Area. As of calendar year 2021, the West Bountiful City Redevelopment Agency reported $2,741,631 in TIF revenues for this project area over a thirteen-year period. Of that amount, 95 percent (approximately $2.6 million) has been paid to the developer. According to the participation agreement between the developer and the agency, three phases of construction, with required performance metrics, were expected to be completed. While the agency's annual report states that all three phases of work have been completed, we were not able to verify all aspects of phase completion due to a lack of documentation. Even though the agency was not tracking developer progress, the tax increment was paid out.

Vague and unclear objectives make it difficult to measure progress and determine project area success.

St. George City Fort Pierce Economic Development Project Area No. 2. Developer objectives for this project area were not clearly defined. For example, the agreement states that the developer "shall plan for, develop, construct, lease, use and/or operate… manufacturing, office, processing, distribution, pretreatment and other facilities, equipment, machinery and other personal property items… within or about the development parcel." Aside from a one-year timeline, there are no other requirements listed for the developer to qualify for the tax incentive. Vague and unclear objectives such as these make it difficult to measure progress and determine project area success, which is discussed later in the chapter. Despite not tracking developer progress on this project area, the developer was paid $2.6 million over an 11-year period.[18] Nonetheless, we were encouraged to learn that the St.

[18] One of the incentivized developers on this project area ceased continuous operations and closed. The closure led to the termination of all employees, which effectively canceled the developer's eligibility to receive the TIF incentive. The St. George Redevelopment Agency reports that as soon as job creation ceased, the TIF incentive was withheld.

George Redevelopment Agency reports tracking and auditing developer objectives for more recent project areas.

WEST JORDAN UTAH

West Jordan City Data Center Economic Development Project Area. The West Jordan City Redevelopment Agency views the purposes (objectives) of the project area plan as guidelines for strategic direction rather than clearly identified deliverables. While we were not able to verify the completion of project area plan objectives, the agency had very clearly defined objectives in the developer agreement. These objectives were consistently tracked, and TIF funds were subject to job creation and developer investment thresholds. Because job creation thresholds were not met in recent years, the agency withheld $2.5 million (34 percent) of the $7.5 million developer incentive total. This example successfully demonstrates the post-performance nature of the TIF increment by ensuring accountability prior to fund distribution.

The West Jordan City Redevelopment Agency had clearly defined objectives in the developer agreement that were consistently tracked.

Basic Monitoring Helps Agencies Evaluate the Use of TIF. Basic monitoring can help state legislators better understand whether TIF regulations are achieving their goals. To promote accountability, local legislative bodies, such as city councils, could require regular reports from executive officers that document the progress toward clearly articulated goals and objectives for the use of TIF funds. Another option could be reporting progress to the database maintained by the Governor's Office of Economic Opportunity (Go Utah). This would provide an opportunity to measure and track agreed-upon outcomes throughout the life of the project area.

Unless the outcomes of economic development projects and their incentives are measured, it will not be clear whether local governments are meeting their goals and to what extent. To ensure that TIF incentives are indeed post-performance based, local development officials should ensure that developer agreement goals and objectives are met before incentives are paid out. To bolster accountability and consistency, we recommend that the Legislature consider codifying the requirement for redevelopment agencies to report progress and demonstrate the completion of each goal/objective included in the TIF project area plan.

Unless the outcomes of economic development projects are measured, it will not be clear whether local governments are meeting their goals.

TIF Incentives Are Not Adequately Tied to Performance Metrics

We found instances of developer objectives that did not relate to the objectives set forth in the project area plan.

In addition to the lack of oversight regarding TIF project area objectives, we found one example of a TIF incentive being paid to a developer for completing benchmarks that were not related to the purpose or the objectives of the project area. More commonly, we found instances of developer objectives that did not relate to the objectives set forth in the project area plan. This is concerning, because the project area plan is publicly presented to taxing entities to gain their support. Furthermore, developer agreements are created after project area plans are approved in a public hearing; therefore, participation (developer) agreements do not require public input. When developer objectives do not relate to the project area plan, it creates a situation where the TIF funds may not be spent according to publicly agreed-upon parameters. To remedy this, we recommend that prospective developer agreements, along with agreements to develop land, be tied to project area plan purposes, standards, goals, or objectives.

Even though the developer of the Orem project area is required to submit an annual jobs report, submitting the report is not a requirement that the developer must complete to receive the TIF incentive.

Orem City University Place Community Development Project Area.[19] Community development goals and objectives for this project area include job creation and job development. Likewise, the developer agreement requires the developer to provide an annual jobs report to the agency no later than February 28 of each calendar year. Even though the developer is required to submit an annual jobs report, submitting the jobs report is not a requirement that the developer must complete to receive the TIF incentive. For example, the tax increment reimbursement structure requires the developer to primarily meet square footage requirements for office space. Having the TIF increment tied to square footage rather than to physical job creation generates a disconnect between project area objectives and the reason the increment is paid out.

West Bountiful City Commons Redevelopment Project Area. This agency's annual report states that project area development is intended to create jobs and increase property and sales tax revenue for the taxing

[19] The Orem City University Place Community Development Project Area replaced the Orem City Redevelopment Project Area #85-02 that was originally selected as part of our sample. The reason for the replacement was the lack of documentation from the #85-02 project area, which was created in 1985.

entities. The report lists job creation as one of the primary benefits received by participating taxing entities. Moreover, an objective of the project area plan is to "encourage and assist redevelopment in order for a public or private employer to create additional jobs within the state and city." When questioned about whether these and other objectives had been met, the agency referred us back to the annual report; however, the number of jobs created is not a metric mentioned in recent annual reports.

The number of jobs created was not mentioned in recent annual reports for the West Bountiful City project area.

Riverdale City 1050 West Neighborhood Redevelopment Project Area. Riverdale's annual report lists job creation as one of two main benefits to taxing entities participating in this project area. When questioned about the progress of this objective, the agency told us that the completion of project area plan objectives is evidenced in the annual report. While the annual report lists several new businesses in the project area, there is no indication regarding the number of jobs that were created. Although project areas such as Riverdale City and West Bountiful City resulted in obvious new development and business, the extent and type of job creation were not tracked. Therefore, the magnitude of success remains unclear.

Riverdale City's annual report lists several new businesses in the project area; however, there is no indication regarding the number of jobs that were created.

The Utah Foundation Published a Report in December 2020 Called "Optimizing Local Approaches to Tax Incentives in Utah." This report relies on a survey that compares Utah's cities and counties with their national counterparts. The Foundation supplemented the survey results with information from dozens of interviews with local government officials. Similarly, we met and worked with ten local redevelopment agencies that were randomly selected as part of our sample. Our observations seem consistent with findings from the Foundation's report, which states that more than one-third of local economic development officials in Utah are not measuring whether their incentives are helping them meet their goals. To promote accountability, we recommend that the Legislature consider requiring agencies to document progress toward clearly articulated goals and objectives for all project areas relying on TIF assistance.

A Utah Foundation report found that one-third of local economic development officials in Utah are not measuring whether their incentives are helping them meet their goals.

Objectives Are Not Linked to Project Type or Location

The audit request letter from the Legislature specifically asked for case studies from Class 1 and Class 2 counties. Ten project areas were selected at random for the sample and include a variety of project area types spread across five different counties statewide. While analyzing publicly approved project area plans, we discovered that most of the sampled project areas shared matching (if not identical) objectives. Ideally, objectives should be specific, measurable, and attainable. Attributes such as these can help determine individual project area success and increase public confidence in the use of TIF funds. Furthermore, regular reports documenting agency progress toward clearly articulated goals and objectives are needed.

Most of the sampled project areas shared matching (if not identical) objectives.

The Majority of Sampled Projects Share Matching Objectives

Although Utah statute requires specific project area goals, standards, or strategies to be documented prior to the creation of a TIF project area, we found these objectives to be vague and, in some cases, unmeasurable. In addition, seven of the ten redevelopment agencies (ranging geographically from Riverdale City to St. George City) shared matching objectives, regardless of project area type. For instance, our sample includes one urban renewal project area (blight), four economic development project areas, one community development project area, and four redevelopment project areas. The statutory purposes for each of these project areas vary widely, from blight elimination to job creation; however, most of these project area types share matching objectives. Because the purpose of each project area is fundamentally different, we believe that objectives should be different and created to match the unique characteristics of each project area.

Because the purpose of each project area is fundamentally different, we believe that objectives should be different.

Of the ten project areas, three had relatively unique objectives, while the other seven did not. In these seven project areas, we identified eighteen distinct objectives. Of the eighteen distinctly identified objectives, only three objectives were not shared with another project area, as summarized in Figure 3.2.

Figure 3.2 Redevelopment Agencies Share Matching Objectives, Regardless of Project Area Type. Because the purpose of each project area is fundamentally different, we believe that objectives should be different and created to match the unique characteristics of each project area.

Project Area Statistics		Matching Objective Statistics	
70%	Seven of ten project areas shared matching/identical objectives regardless of project area type.	83%	Project areas with matching objectives shared 15 of 18 objectives with another project area.
30%	Three of ten project areas had relatively unique objectives.	17%	Project areas with matching objectives had only 3 of 18 objectives that were not shared with another project area.

Source: Auditor generated

While we acknowledge that some project area objectives may have broad applications, evidence does not suggest that specific, actionable targets were identified by the agencies. The lack of clearly identified objectives could result in developers being incentivized for completing activities that do not match the intended outcomes of the project area plan. Without clearly aligned and specific objectives, the credibility of TIF as a viable tool for economic development in Utah could be undermined.

The lack of clearly identified objectives could result in developers being incentivized for completing activities that do not match the intended outcomes.

The primary method of determining the success of any activity is to measure its impact. While job creation and building a tax base may have straightforward metrics, it is more difficult to develop metrics to determine the success of goals related to quality of life, environmental sustainability, and social equity. Based on information we received from redevelopment agencies, it appears that some of the goals they set were unmeasurable. For example, one agency pointed to the following objective, stating that there was no real way to measure the success of the outcome:

> Promote and market the project area for economic development that would be complimentary to existing businesses and industries or would enhance the economic base of the city through diversification.

This objective is shared among seven of the ten project areas and has been identified as "unmeasurable" by an agency tasked with

Measures that lack meaningful goals provide minimal value to decision-makers.

demonstrating its completion. According to the Government Accountability Office, performance measurement is the ongoing monitoring and reporting of program accomplishments, particularly progress toward pre-established goals. Measures that lack meaningful improvement goals provide minimal value to decision-makers, as it is unclear whether agencies are actively implementing strategies and taking specific action to affect their performance.

Specific, measurable, and attainable goals and objectives can better define the success of a project area and increase public confidence.

Without measurable project area development outcomes, it will not be immediately clear whether local governments are meeting their goals. Setting specific, measurable, and attainable goals and objectives can better define the success of a project area and increase public confidence. Therefore, we recommend that the Legislature consider requiring project area plan objectives to be specific to the type of development and location of the project area. Allowing redevelopment agencies flexibility in setting unique objectives, while considering project area type and location, will help guide the focus of project area development.

Recommendations

1. We recommend that the Legislature consider codifying the requirement for redevelopment agencies to report progress and demonstrate the completion of each goal and objective included in the project area plan.

2. We recommend that the Legislature consider requiring prospective developer (participation) agreements, along with agreements to develop land, to be tied to project area plan purposes/goals/objectives.

3. We recommend that the Legislature consider requiring project area plan objectives to be specific to the type of development and the location of the project area.

Chapter IV
EDTIF Can Improve Its Project Audit and Justification Processes

The Economic Development Tax Increment Finance (EDTIF) program uses post-performance tax credits to incentivize companies seeking to expand or relocate to Utah. These tax credits are available for state taxes paid after contractual performance benchmarks, including job creation and capital expenditures, have been met. The Governor's Office of Economic Opportunity (Go Utah) verifies the achievement of required benchmarks, such as new state revenue targets, prior to issuing the tax credit. While this verification process is well defined, our audit revealed that internal compliance auditors at Go Utah determine the level of acceptable risk in sample data rather than senior management or the board. We recommend that senior management and the board at Go Utah make the risk tolerance determinations for the EDTIF program. Additionally, we believe Go Utah should conduct robust justification analyses for potential contracts to ensure that incentives are used only when necessary to attract or retain a company.

EDTIF uses post-performance tax credits to incentivize companies seeking to expand or relocate to Utah.

Risk Appetite and Risk Tolerance Should Be Determined by Senior Management and the Board

Companies in the EDTIF program that meet required contractual benchmarks are eligible to receive a tax credit. Required benchmarks include:

- **New state revenue**. New state revenue consists of a combination of state income taxes withheld, corporate taxes paid, and state portions of sales taxes paid.
- **Job creation**. Incentives are available to certain companies that create new, high-paying jobs in one of five targeted industries.

EDTIF contractual benchmarks include new state revenue and job creation.

While income tax withholdings and corporate taxes paid can be verified through the State Tax Commission Go Utah internally verifies the total amount of sales tax paid. To accomplish this, Go Utah uses a random sampling method to compare company invoices against self-reported company sales tax totals.

While we recognize the need for risk assessments to be based on individual company characteristics and past performance, we question the subjective nature of these decisions that are made on a seemingly arbitrary basis without the input of senior management or the board. Internal compliance auditors at Go Utah analyze company-reported sales tax data by inputting information into a statistical model called monetary unit sampling (MUS). Depending on individual model inputs, including the auditor-chosen tolerable misstatement (error rate), the model will calculate a sample size. Some high-tolerable misstatements (acceptable error rates) entered by Go Utah auditors contributed to large sample size variations. Once the sample is selected, participating EDTIF companies must then send the selected invoices to Go Utah for verification. Internal auditors at Go Utah verify that the state portion of the sales taxes listed on the invoice match what was self-reported by the company. Based on our review, Go Utah's wide range of tolerable misstatement values has resulted in incongruent requirements for companies submitting data for review. Our concern is that this inconsistent sampling method may result in inconsistent outcomes for companies receiving EDTIF tax credits.

Some high error rates entered by Go Utah auditors contributed to large sample size variations.

The Level of Acceptable Risk Is Based on Individual Judgement and Ranges More Than 60 Percentage Points. While the MUS sampling model calculates a sample size based partly on company factors, such as the amount of sales tax claimed and the number of invoices, a key input is the tolerable misstatement. The tolerable misstatement is the margin of acceptable error, which is chosen by internal compliance auditors. The tolerable misstatement represents the maximum amount of misstated dollars that are acceptable in the sample. For example, management at Go Utah report that an acceptable tolerable misstatement is about 25 percent of the total sales tax claimed. However, we observed tolerable misstatements ranging from 0.93 percent to 65.05 percent. This practice has resulted in the inconsistent treatment of participating EDTIF companies. More specifically, some companies with a large amount of sales tax had relatively few invoices sampled, while other companies with a small amount of sales tax had many more invoices sampled. Figure 4.1 shows two examples where the number of invoices sampled was disproportionate to the amount of sales tax claimed.

Some companies with a large amount of sales tax had relatively few invoices sampled, while other companies with a small amount of sales tax had many more invoices sampled.

Figure 4.1 EDTIF Sample Sizes Vary Based on Tolerable Misstatement. Go Utah compliance auditors select the tolerable misstatement of the sales tax claimed, which affects the sample size of their audit. The sample size does not always correspond with the total amount of sales tax claimed.

Similar Sample Size with Different Amounts of Sales Tax Claimed			
Company	**Sales Tax Claimed**	**Tolerable Misstatement**	**Sample Size (# of Invoices)**
Company A	$32,432.22	46.25%	5
Company B	$3,113.36	31.00%	8

Different Sample Size with Similar Amounts of Sales Tax Claimed			
Company	**Sales Tax Claimed**	**Tolerable Misstatement**	**Sample Size (# of Invoices)**
Company C	$91,366.92	20.80%	27
Company D	$92,518.26	43.23%	6

Source: Auditor generated using data from Go Utah

As shown in Figure 4.1, the work done by compliance auditors to verify the sales taxes paid does not necessarily align with the risk present, based on the dollar amounts claimed. While the examples shown are relatively low dollar amounts, several companies had more than $1 million in total sales taxes claimed, increasing the importance of appropriate sample sizes to ensure that the awarded tax credit is accurate. Furthermore, appropriate sample sizes will help ensure that compliance auditors at Go Utah are spending their time in the most efficient ways possible.

Appropriate sample sizes will help ensure that compliance auditors at Go Utah are spending their time in the most efficient ways possible.

Sample Sizes Were Not Increased Despite Identified Errors. In addition to sample sizes not being proportional to total invoice amounts, we found that errors did not result in additional samples being selected. For one company, the tolerable misstatement chosen by Go Utah exceeded 40 percent. Go Utah management reported that, based on the company's good history with the EDTIF program, they were deemed lower risk and, therefore, a high tolerable misstatement was allowed. However, half of the samples selected for this review had the wrong amount of state sales tax claimed. The cause of the error had been a tax rate change partway through the sample time period, which the company did not account for, resulting in incorrect calculations. While the dollar value of the misstatement was small compared with the overall tax credit claimed, the high error rate in the selected sample is concerning. Despite half of the samples being incorrect, Go Utah did not increase its sample size or ask the company to recalculate its sales tax paid. However, Go Utah does apply the error rate found to the entire amount of sales tax claimed to reduce the amount of tax credit.

Go Utah applies the error rate found to the entire amount of sales tax claimed to reduce the amount of tax credit.

Go Utah reported that higher allowable misstatements in their MUS sampling model may be permissible based on a positive history with a company. While we agree that these types of risk assessments are valuable to ensure that the benefits of sampling correspond with the amount of work required, we believe the process could be improved through formalization and moving the determination of risk to a more appropriate level. The Committee of Sponsoring Organizations' (COSO) published guidance on the enterprise risk management framework. COSO defines the board's role as "reviewing, challenging, and concurring with management on [the] proposed strategy and risk appetite."[20] Therefore, we recommend that senior management and the board at Go Utah define the risk appetite and risk tolerance levels for the MUS sampling model used by the EDTIF program. Once such decisions have been made, we recommend that policies and procedures be designed to assist compliance auditors in their sampling methods.

We recommend that senior management and the board at Go Utah define the risk appetite and risk tolerance levels.

Go Utah Should Consider Requiring a Robust Justification Analysis Prior to EDTIF Project Approval

The EDTIF program is entirely post-performance based. Eligible companies receive a tax credit only for actual taxes that have been paid, and only in the event that other objectives, such as job requirements, have been met. Because of this, financial risks to the state are lower than for a program that pays incentives up-front. As discussed in Chapter III of this report, some local-government TIF projects paid incentives to developers without ensuring that project area plan or developer objectives had been met. Such project areas run the risk that incentives may be paid without a surety that project area goals will be

Eligible EDTIF companies receive a tax credit only for actual taxes that have been paid.

[20] COSO Enterprise Risk Management Integrating with Strategy and Performance.

accomplished. While this is not a concern with the EDTIF program, there is still a risk that incentives may be paid to companies that would have expanded or relocated to Utah even without the incentive. To ensure that the EDTIF tax credit is appropriately used only when necessary, a robust justification, or "but for" analysis should be considered.

To ensure that the EDTIF tax credit is used only when necessary, a robust justification, or "but for" analysis should be considered.

Currently, EDTIF contracts have a section titled "Intent and Incentive Influence." In this section, the prospective company identifies other states or countries being considered in addition to Utah. As an example, one contract states:

> The company is actively considering other sites including Texas, Ireland, and the Netherlands. Out of all the offers to Company for the Project, Company selected the State of Utah because of the EDTIF incentive offered by State and laid out in this Agreement.

Go Utah management points to this contract language as EDTIF's "but for" analysis. While we believe the "Intent and Incentive Influence" section is an important element in ensuring that EDTIF incentives are properly awarded, we believe a more robust "but for" analysis would be appropriate. Typically, there is not additional documentation available to prove that additional analyses had been conducted to justify that the EDTIF tax credit was necessary to attract or retain the company.

In 2021, a CEO of a company receiving EDTIF incentives made public statements that the company never had any intention of leaving the state but received millions of dollars in EDTIF incentives anyway. While the company must meet contractual requirements to receive the incentive, statute requires Go Utah to consider "the necessity of the tax credit for the business entity's expansion in the state or relocation from another state"[21] when offering EDTIF incentives. In response to the CEO's comments, Go Utah completed an investigation. The investigation found that the company already had employees working in other states, which had some labor force advantages when compared to Utah. Based on the information collected, the threat of losing the company to a different state was real and, in the opinion of Go Utah, awarding an EDTIF tax credit was justified.

Statute requires Go Utah to consider "the necessity of the tax credit for the business entity's expansion in the state or relocation from another state."

[21] ***Utah Code 63N-2-104.2.***

Colorado's state TIF program requires a "but for" analysis.

Since EDTIF awards are often millions of dollars, we believe that requiring a robust "but for" analyses to justify contracts is appropriate. Colorado's state TIF program requires a "but for" analysis for projects that apply to use the state's TIF. We recommend that Go Utah consider requiring a robust "but for" analysis for companies seeking an EDTIF tax credit.

Recommendations

1. We recommend that senior management and the board at the Governor's Office of Economic Opportunity define the risk appetite and risk tolerance levels as they relate to monetary unit sampling used by the EDTIF program.

2. We recommend that the Governor's Office of Economic Opportunity establish written policies and procedures to guide sample selection and the application of risk tolerance boundaries set by senior management and the board.

3. We recommend that the Governor's Office of Economic Opportunity consider requiring a "but for" analysis to demonstrate the public benefit associated with the use of the EDTIF tax credit.

Appendices

Appendix A

Appendix A
Complete List of Audit Recommendations

This report made the following eleven recommendations. The numbering convention assigned to each recommendation consists of its chapter followed by a period and a recommendation number within that chapter.

Recommendation 2.1

We recommend that the Legislature consider revising statute to include guidance on managing unexpended TIF funds once a collection period expires.

Recommendation 2.2

We recommend that the Legislature consider revising statute to require local governments to make financial information such as receipts, expenditures, account balances, and fund transfers publicly available for each project area.

Recommendation 2.3

We recommend that local officials report TIF project area expenditures, including infrastructure development and incentives, by (1) coding expenditures by individual project area in annual state auditor reports, or (2) reporting expenditures by individual project area to the database maintained by the Governor's Office of Economic Opportunity.

Recommendation 2.4

We recommend that the Governor's Office of Economic Opportunity publish, on its website, the list of agencies that do not report required project area information to the database and report the number of noncompliant agencies to the Legislature on an annual basis.

Recommendation 2.5

We recommend that the Legislature consider revising statute to require local governments to conduct a robust justification study known as a "but for" analysis that adequately justifies the use of TIF funds.

Recommendation 3.1

We recommend that the Legislature consider codifying the requirement for redevelopment agencies to report progress and demonstrate the completion of each goal and objective included in the project area plan.

Recommendation 3.2

We recommend that the Legislature consider requiring prospective developer (participation) agreements, along with agreements to develop land, to be tied to project area plan purposes/goals/objectives.

Recommendation 3.3

We recommend that the Legislature consider requiring project area plan objectives to be specific to the type of development and the location of the project area.

Recommendation 4.1

We recommend that senior management and the board at the Governor's Office of Economic Opportunity define the risk appetite and risk tolerance levels as they relate to monetary unit sampling used by the EDTIF program.

Recommendation 4.2

We recommend that the Governor's Office of Economic Opportunity establish written policies and procedures to guide sample selection and the application of risk tolerance boundaries set by senior management and the board.

Recommendation 4.3

We recommend that the Governor's Office of Economic Opportunity consider requiring a "but for" analysis to demonstrate the public benefit associated with the use of the EDTIF tax credit.

Appendix B

Appendix B
Project Area Information

Redevelopment Agency Name	Project Area Name	Project Area Creation Date*	Project Area Trigger Date*
Holladay City	Olympus Economic Development Project Area	2005	2006
Ogden City	Ogden-Hinckley Airport Redevelopment Project Area	1989	2005
Riverdale City	1050 West Neighborhood Redevelopment Project Area	1993	1997
West Jordan City	Economic Development Project Area #3 – Data Center	2008	2012
West Valley City	Granger Crossings Urban Renewal Project Area	2010	2012
West Bountiful City	West Bountiful City Commons Redevelopment Project Area	2004	2008
St. George City	Fort Pierce Economic Development Project Area #2	1999	2004
Sandy City	South Towne Ridge Economic Development Project Area	1999	2004
Spanish Fork City	Kirby Lane Neighborhood Redevelopment Project Area	1991	1995
Orem City	University Place Community Development Project Area**	2016	2018

** All dates are measured in calendar years. The Project Area Trigger Date indicates the year TIF funds were first received.*
*** The Orem City University Place Community Development Project Area replaced the Orem City Redevelopment Project Area #85-02 that was originally selected as part of our sample. The reason for the replacement was the lack of documentation from the #85-02 project area, which was created in 1985.*

Agency Response

#CitiesWork

UTAH LEAGUE OF CITIES AND TOWNS

September 12, 2022

Kade R. Minchey, CIA, CFE
Auditor General
W315 House Building State Capitol Complex
Salt Lake City, Utah 84114

Dear Mr. Minchey:

Thank you for affording the Utah League of Cities and Towns (ULCT) the opportunity to respond to "A Performance Audit of Tax Increment Financing" prepared by the Office of the Utah Auditor General. The report examined a sampling of selected projects that involved our member cities. The audit was limited to projects located in Counties of the First and Second Class.

The audit recommendations focused on the importance of transparency and compliance with projects objectives. It also identified possible legislative changes that could assist in achieving these goals. The ULCT concurs that these objectives are worthwhile. Tax Increment Financing is an important tool for municipalities that has grown and changed over the years. We welcome the opportunity to be involved with the development of any upcoming legislation regarding this tool. We have included our email addresses in the signature lines below.

Again, thank you for the opportunity to respond. We appreciate the professionalism of your staff.

Sincerely,

Cameron Diehl
ULCT Executive Director
cdiehl@ulct.org

Justin Lee
Director of Government Relations
jlee@ulct.org

Utah Governor's Office *of* Economic Opportunity

September 2, 2022

Auditor General Kade R. Minchey
Office of the Auditor
Utah State Capitol Complex
East Office Building, STE 310
Salt Lake City, UT 84114

Dear Auditor General Minchey,

This letter is in response to the recent audit *A Performance Audit of Tax Increment Financing, September 20, 2022*. As identified in the audit, the Governor's Office of Economic Opportunity (Go Utah) administers one of the tax increment financing programs called the Economic Development Tax Increment Financing (EDTIF) program. Go Utah has found this program provides increased economic diversity in strategic areas to promote high-paying jobs with statutorily defined post-performance requirements and processes. Go Utah agrees with the findings and recommendations of the audit found within Chapter IV.

Recommendation 1. & 2. Agree and partially implemented.
Go Utah has a draft policy to guide the parameters for selecting MUS sampling that will be reviewed with consideration of risk and approved by management after consultation from the Board of Business and Economic Development Subcommittee (aka Go Utah Board). Go Utah recognizes the importance of the post-performance nature of the EDTIF program and awards only a portion of a company's net increase of revenue paid from employee withheld income tax, corporate tax and state sales tax upon meeting contractual obligations. One area addressed in the audit is a relatively new / updated process, adopted in Summer of 2021, called Monetary Unit Sampling (MUS). This sampling technique superseded the substantive and random sampling approach used for more than 10 years. Sampling is specifically used to determine the accuracy of the amount of tens of thousands of transactions of state sales tax paid, as claimed by a company, on an annual basis. Forty-Five companies' EDTIF reports were evaluated using the MUS sampling approach. We reiterate that the audit findings did not raise concern with the calculation of the payment for rebating sales tax and only that the parameters in choosing sample size were questioned. When a company had a low error rate from a previous year, the next assessment provided the benefit of an increased risk tolerance and lower sample size to reduce the cost of compliance to the company providing invoices and payment documentation. Go Utah appreciates the auditor's confirmation on the appropriate use and benefits of MUS sampling for the EDTIF program.

Recommendation 3. Agree and partially implemented.
Our office reviews every company's EDTIF proposal with careful consideration of how it will generate new state revenue and how the local community will benefit from the additional growth of high-paying jobs. Go Utah is expanding upon the "but for" analysis to include a first-in the nation, statutory required Economic Impact Study being developed by the Kem C. Gardner Policy Institute to assist with the estimated economic benefits and costs of a project specific to the economic region of the state. Our office will oversee the refinement of this report to evaluate the public benefit of a project.

We express our gratitude to your auditing staff who remained objective and highly engaged throughout all phases of the audit. We appreciate the level of professionalism and the valuable objective insight pursuant to understanding the current needs of the Tax Increment Financing programs across the state and any potential future programs the Legislature desires to create.

Sincerely,

Dan Hemmert
Executive Director
Governor's Office of Economic Development

to: Kade Minchey, kminchey@le.utah.gov
cc: Benn Buys, bbuys@le.utah.gov
cc: Nicole Luscher, nluscher@le.utah.gov