

Government of the District of Columbia



Guidance for Parties Seeking Tax Increment Financing

Tax Increment Financing (TIF) allows the District of Columbia (District) to issue debt to be repaid from future incremental property and sales taxes generated by a development project, with the debt proceeds contributing to development costs such as infrastructure or public amenities. Under D.C. Official Code § 2-1217.01 *et. seq.* (the TIF Act), prior to submission to Council for approval, TIFs shall be reviewed by the Office of the Chief Financial Officer (OCFO), and the Office of the Deputy Mayor for Planning and Economic Development (DMPED).

This guidance is intended to provide applicants with insight on the criteria, standards, and procedures that the District employs when reviewing a TIF. TIF application approval is discretionary. Even with the submission of a complete application, receiving a TIF from the District is not guaranteed as the District weighs many priorities. An approved TIF application and financing agreement require clear understanding and significant effort by all parties involved. Although this document shows how the TIF review process is applied in practice, it is instructive and does not supersede any part of the TIF Act legislation; in the event of a discrepancy, the TIF Act will prevail.

While this guidance specifically describes the requirements and process for applications submitted under the TIF Act, applications for tax increment financing that advance under other legislation, including applications for financing under the Payment In Lieu of Taxes Act (the PILOT Act) as amended,¹ will follow a similar procedure of application review and document negotiations with the applicant and OCFO/DMPED. The appropriate legislation and process details can be discussed at a pre-application conference. Applicants are highly encouraged to contact DMPED and OCFO representatives to discuss the specifics of their project before submitting a formal application.

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¹ D.C. Official Code § 1-308.01 *et. seq.*

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Section 1: Overview of the TIF Process

Authorization of a TIF will generally follow the process below. After the pre-certification in step 3, the time to complete the remaining steps of the process depends on a variety of factors, including time to address any conditions to the OCFO's pre-certification, to complete the negotiation of terms, and for legislative introduction and approvals. An applicant should expect at least six months to complete the process after the pre-certification, though it could extend longer.

1. **Pre-application Conference:** The applicant may request to meet with DMPED and the OCFO to discuss the project.
2. **Application Sufficiency Review:** The applicant submits a written and electronic application to both DMPED and OCFO to review for sufficiency. If deemed incomplete, DMPED and OCFO will send notice specifying the reasons for rejection. If deemed sufficient, DMPED and OCFO will send notice of sufficiency at which point the applicant submits 3 written copies and 1 electronic copy of the final modified application to each department. See Section 2 below for details on the application requirements.
3. **OCFO Pre-Certification:** Within 120 calendar days of the notice of sufficiency and receipt of the application copies, the OCFO will reject or pre-certify a specific amount of TIF subsidy for the project and identify any conditions that must be satisfied prior to Final Certification.² The pre-certified amount generally represents the maximum amount of subsidy that the OCFO will approve based on OCFO's analysis and available information from the applicant. See Section 3 below for details on the review process.
4. **Financing Agreement Negotiations:** Upon OCFO Pre-Certification, DMPED, in coordination with the OCFO, may negotiate financing agreement terms in a term sheet and any other related documents governing the terms and conditions of the TIF. See

² OCFO provides a pre-certification letter for applications seeking Council authorization under the TIF Act. See D.C. Official Code § 2-1217.03. Projects seeking authorization under the PILOT Act provisions or separate ("stand alone") legislation will not receive a pre-certification letter. For these projects, financing terms provided to applicant at the end of the application review will include the maximum amount of financing to be authorized.

Section 4 below for details.

5. CFO Final Certification: The OCFO shall review the development finance agreement terms and either (a) provide Final Certification of the project, or (b) reject the project and provide the applicant the reason for such rejection. If rejected, the applicant shall be notified as to the reason of the rejection, and the applicant shall have 60 days to address the reason for rejection and cure any defects.
6. Mayoral Review and Legislation: DMPED decides whether or not to introduce the draft TIF resolution to the Council. If TIF legislation is introduced, the legislative process typically requires (a) a Council hearing with testimony by the developer, OCFO, and DMPED, (b) a Fiscal Impact Statement from the OCFO which identifies any funds which must be budgeted by the District (c) one Council vote, and finally (d) Mayoral approval. Further, if the credit enhancement of the Downtown TIF is required, TIF legislation cannot become effective until a project reserve has been funded by the District (see Section 3-c.i.7 below).

Section 2: Application Requirements

The application shall include:

1. A delineation of the proposed TIF Area, including:
 - a. A map of the subject property, including addresses, squares and lots (SSLs), and boundary information.
 - b. The current assessed value and annual property tax.
 - c. Description of the current condition, use, and ownership of the property.
 - d. Evidence of site control (either date of and amount of purchase, or documents governing development rights).
2. A description of the proposed land uses of the project, including:
 - a. Total square footage detailed by use, a count of units (if there is a residential component of the project) and number of parking spaces for each use. Include a breakdown of market-rate and affordable units (if applicable), as well as their affordability levels.
 - b. Project timeline and phasing plan (if applicable).
 - c. Proposed business types or major tenants for retail and commercial projects.
 - d. What would occur at the site in the absence of the requested TIF.
 - e. The proposed use of the TIF financing proceeds describing the amount, type, and timing of spending.
3. A pro forma projection of the revenues and expenses of the project in an Excel file.

- a. The first worksheet of the Excel file should summarize the project substantially as shown in the attached Excel template (Attachment 1). Please contact the OCFO directly with any questions about the template.
 - b. The pro forma shall be submitted electronically in Excel and shall allow the OCFO to examine and manipulate the underlying formulas and assumptions. The pro forma should include all relevant financial projections and assumptions that demonstrate the need for the requested TIF, which generally includes but is not limited to development costs, cash flow projections, and rates of return.
 - c. Include relevant comparables or supporting data for rent, land value, construction costs or any other assumptions used in the pro forma.
 - d. Include two versions of the model, one with a TIF subsidy and one without a TIF subsidy. Be sure to indicate whether the version with a TIF subsidy includes any necessary Davis-Bacon wage adjustments and Certified Business Enterprise or Local Business Enterprise costs.
4. An assessment of the financial feasibility of the project, including:
 - a. A list of the sources and uses for the project.
 - b. A specific breakout of uses proposed to be funded by a TIF
 - c. Any completed market demand studies for the project.
 - d. Neighborhood information including economic demographics, rents, and other relevant dynamics related to the market.
5. Description of the project's ownership structure, including a list of all parties with an ownership interest in the project.
 - a. Description of the ownership's experience in developing similar projects within the District.
 - b. A list of all properties owned, in part or whole, by any portion of the project's ownership structure which are within ½ mile of the TIF project site.
 - c. A clean hands certificate for the applicant from both the OCFO and DCRA.
 - d. Description of any ongoing criminal or civil litigation against the project participants or material defaults under existing financing including open, pending, or closed bankruptcy proceedings from the prior 10 years.
6. A description of efforts to obtain adequate debt and equity to complete the project to include:
 - a. Letters of interest, commitment, and/or rejection from lenders.
 - b. Letters of interest, commitment, and/or rejection from equity providers.
 - c. Other requests for alternate funding, including grants, tax credits, and loans. For projects eligible for a subsidy from another source, include a specific explanation

as to why such sources may be absent from the project (such as affordable housing or historic properties which are eligible for tax credits).

7. A general description of the timing and phasing of the project, including projected construction start, certificate of occupancy, and stabilization.
8. A description of the compatibility of the project with the Comprehensive Plan.
9. A description of the project's compliance with the zoning regulations of the District, including current and projected entitlement status (for PUDs provide status and the list of proffers).
10. Projected tax revenue and benefits to be generated by the project.
 - a. Tax revenues include income taxes, franchise taxes, real property taxes, sales taxes, parking taxes, use taxes, and other taxes.
 - b. Benefits include both public and community benefits.
11. Any other information reasonably requested by DMPED or the OCFO (for example appraisals or environmental assessments).
12. Name and contact information of the person most familiar with the information submitted.
13. A non-refundable fee of \$20,000 payable to "District of Columbia Treasurer" and submitted to the OCFO. OCFO requires this fee for any application seeking tax increment financing, except for applications that are submitted for approval of financing under the terms of D.C. Official Code §1-308.03 of the PILOT Act.

Section 3: Application Review

Review shall be performed jointly by the OCFO and DMPED. Review shall include, but is not limited to, consideration of criteria established in the TIF Act, policy goals and objectives of the Mayor, and the guidelines provided in this document.

1. TIF Act Criteria
 - a. Whether the project is financially feasible;
 - b. Whether the project will likely result in a net increase in the taxes payable to the District, taking into consideration income taxes, franchise taxes, real property taxes, without regard to the real property tax increment revenues to be applied to payment of the TIF bonds, sales taxes, without regard to the sales tax

- increment revenues to be applied to payment of the TIF bonds, parking taxes, use taxes, and other taxes, over the amount that would have been payable to the District in the absence of the project;
- c. Whether the project is consistent with the Comprehensive Plan and will achieve development priorities identified in the Comprehensive Plan for the priority development area in which the project is located;
 - d. Whether the project's total anticipated benefits to the District, including public benefits as well as financial benefits, exceed the total anticipated costs to the District;
 - e. Whether an allocation of the project's real property tax increment revenues and sales tax increment revenues will compete with or supplant benefits from other sources or by other means which are otherwise available for the project on reasonable terms and conditions; and
 - f. Whether the project is one of special merits and there is a reasonable probability that the special merits of the project will not be achieved without the TIF allocation.

2. Policy Goals

Projects selected for TIF financing shall advance the economic development goals of the Mayor, which prioritize:

- a. Building or preserving affordable housing,
- b. Advancing DC's Economic Strategy (see www.dceconomicstrategy.com),
- c. Providing for community benefits and amenities, e.g. community space or neighborhood-serving retail,
- d. Other economic development goals specific to the development program or neighborhood.

Please see Attachment 2 to this guidance for DMPED's affordable housing and Certified Business Enterprise (CBE) and First Source requirements for TIF projects.

3. Financing Guidelines

The OCFO makes sole determination of financing terms and underwriting assumptions for a proposed project, and offers the following guidelines:

- a. The incremental sales and property taxes must be sufficient to repay the TIF debt under the typical TIF terms and debt structure described below. Projected incremental taxes include only property and/or sales taxes from the project site that exceed the taxes which would have otherwise been received had the TIF not been approved.³ Incremental property taxes are

³ OCFO may determine, as part of its evaluation, that the project's base sales and/or real property tax revenues are projected to increase, given neighborhood conditions, and that annual increases to the base amount should be incorporated into the project's underwriting and legislative authorization.

subject to an additional deduction corresponding to the Special Real Property Tax.⁴

- b. The TIF amount should not exceed either the cash equity contribution or 20 percent of project costs.
- c. The OCFO generally structures TIF debt in two categories:
 - i. A TIF Bond issued at the beginning of construction. Typical structuring assumptions include:
 - 1. up to 3 years of capitalized interest,
 - 2. a trustee held debt service reserve fund funded from bond proceeds, equal to one year's debt service,
 - 3. a term of up to 25 years,
 - 4. level debt service,
 - 5. a tax-exempt interest rate, and
 - 6. debt service coverage of 1.5 times for property tax and 2.0 times on sales tax (assuming a diverse base of taxpayers).
 - 7. pledge of the Downtown TIF as a secondary source of repayment, which additionally requires a District funded and held reserve of one year of debt service.
 - ii. A TIF Note issued to the developer at the end of construction, without any credit enhancement by the Downtown TIF. Typical structuring assumptions are the same terms as a bond, but without the District funded and held reserve described above, and typically with a lower required debt service coverage (to a minimum of 1.25 times real property and sales tax revenues)

4. Debt Cap Considerations

In addition, TIF debt must be included in the District's debt service budget (the Debt Cap).⁵ The OCFO will estimate future TIF debt service for DMPED, in order for the Mayor to determine the maximum amount that can be budgeted.

Section 4: Financing Agreement Terms

After initial review and OCFO Pre-Certification, OCFO, DMPED and the applicant may

⁴ D.C. Code § 47-336 dedicates a certain portion of all property taxes to repay General Obligation bonds. This deduction is known as the Special Real Property Tax dedication or the G.O. Carveout. A 20-25% estimate of the deduction, after the base tax deduction, is based on a historical analysis of the percentage required to be dedicated to the GO bonds, and may be adjusted as needed by the OCFO.

⁵ See D.C. Code § 47-335.02, which states the District cannot issue any debt which would cause the District's total debt service to exceed 12 percent of its expenditures.

negotiate a financing agreement, and any other related documents, governing the terms and conditions for offering a TIF subsidy to the project. The requirements typically include, but are not limited to:

1. Delivery of certain documents prior to debt issuance, such as completion guarantees executed by the individual owners of the development sponsor, construction documents and building permits, commitments from all debt and equity providers, and execution of any anchor tenant leases. These requirements apply to both the TIF and non-TIF funded components of the project.
2. A requirement that the TIF proceeds will be expended on a dollar-for dollar basis with senior debt, after all other funds are expended, except in extenuating circumstances. TIF funds will be subject to a draw process where incurred costs are verified as eligible expenses by an independent inspector prior to disbursement.
3. An adjustment to, or reimbursement of, the TIF amount if there are project cost savings, a reduction in equity, or better than expected profits.
4. A requirement that all labor which is involved in constructing the project financed by the TIF is subject to a First Source Agreement.
5. Affordable Housing standards and/or other community benefits as appropriate to the development program.

Attachment 1

Project Area and Units		Phase 1	Phase 2	Phase 3	Total	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Construction Start Date															
Certificate of Occupancy Date															
Stabilization Date															
Residential GSF															
Retail GSF															
Office GSF															
Other GSF															
Total GSF															
Residential Units															
Parking Spaces															
Sources and Uses															
Debt															
Other Debt															
Cash Equity															
Tax Credit Investment Equity															
Land Contribution as Equity															
Other Government Grants or Subsidies															
Requested TIF (Net to Project)															
Total Sources															
Land Costs															
Hard Costs - Infrastructure & Sitework															
Hard Costs - Environmental Remediation															
Hard Costs: Phase 1															
Hard Costs: Phase 2															
Hard Costs: Phase 3															
Hard Costs - Davis-Bacon/1st Source/CBE Premium															
Hard Costs - Contingency															
Soft Costs															
Financing Costs															
Total Uses															
Cash Flows															
Total Development Costs															
Add Back Financing Costs															
Less TIF Draws															
Phase 1 NOI															
Phase 2 NOI															
Phase 3 NOI															
Project NOI															
Gross Sales Proceeds															
Sales Transaction Cost															
Unlevered Cash Flow															
Financing Costs															
Debt Service															
Loan Draws															
Loan Payoffs															
Levered Cash Flow															

Project Metrics	
Leveraged IRR	
Cash on Cash Return	

Attachment 2

TIF AFFORDABLE HOUSING REQUIREMENTS:

All TIF applications for projects that will result in the development of multifamily residential property consisting of 10 or more units must comply with the affordable housing requirements set forth herein.

- A. If the multifamily units are located in the following areas, at least 30% of the units shall be dedicated as affordable housing:
 - (i) Within ½ mile of a Metrorail station that is in operation or for which a construction contract has been awarded on or before the date of the disposition;
 - (ii) Within ¼ mile of a Priority Corridor Network Metrobus Route, as designated by the Washington Area Metropolitan Transit Authority, located entirely or partially within the District of Columbia;
- B. If the multifamily units are located outside of the areas described in subparagraph (A), at least 20% of the units shall be dedicated as affordable housing;
- C. The units dedicated as affordable housing pursuant to subparagraphs (A) and (B) shall remain affordable housing units in perpetuity, secured by a covenant of at least 30 years that may be extinguished at the sole discretion of the District;
- D. In the case of rental units, at least 25% of the affordable component (by unit count) shall be housing for which a very low-income household (as defined below) will pay no more than 30% of its income toward housing costs, and the remaining affordable rental units shall be housing for which a low-income (as defined below) household will pay no more than 30% of its income toward housing costs.
- E. In the case of ownership units, 50% of the affordable component (by unit count) shall be housing for which a low-income household will pay no more than 30% of its income toward housing costs, and 50% of the affordable units shall be housing for which a moderate-income household (as defined below) will pay no more than 30% of its income toward housing costs.
- F. “Very low-income household” means a household consisting of one or more persons with total household income less than or equal to 30% of the area median income.
- G. “Low-income household” means a household consisting of one or more persons with a total household income that is more than 30% and less than or equal to 50% of the area median income.
- H. “Moderate-income household” means a household consisting of one or more persons with total household income more than 50% and less than or equal to 80% of the area median income.

TIF CERTIFIED BUSINESS ENTERPRISE (CBE) GUIDANCE

Applicant shall enter into an agreement with the District of Columbia through its Department of Small and Local Business Development that shall require Applicant to contract with a Certified Business Enterprise (CBE) for at least 35% of the contract dollar volume of the TIF Project.

TIF FIRST SOURCE GUIDANCE

Applicant shall enter into a First Source agreement with the District of Columbia.