
January 9, 2025

Performance Audit
Recommendations and
Corrective Actions for Audit:
23-01

CITY OF BURLINGTON
WATERFRONT TAX
INCREMENT FINANCING
DISTRICT

Numerous Errors in Waterfront
TIF District Administration: City
Owes TIF District \$1.2 Million
and State Education Fund
\$197,510

Dated: January 20, 2023

Overview

The SAO makes recommendations designed to improve the operations of state government. For our work to produce benefits, auditees or the General Assembly must implement these recommendations, although we cannot require them to do so. Nevertheless, a measure of the quality and persuasiveness of our performance audits is the extent to which these recommendations are accepted and acted upon. The greater the number of recommendations that are implemented, the more benefit will be derived from our audit work.

In 2010, the SAO began to follow-up on the recommendations issued in our performance audits. Experience has shown that it takes time for some recommendations to be implemented. For this reason, we perform our follow-up activities one and three years after the calendar year in which the audit report is issued. Our annual performance reports summarize whether we are meeting our recommendation implementation targets.

<http://auditor.vermont.gov/about-us/strategic-plans-and-performance-reports>

This report addresses the requirements of Act 155 (2012) to post the results of our recommendation follow-up work on our website. The report does not include follow-up on recommendations issued as part of the state's financial statement audit and the federally mandated Single Audit, which are performed by a contractor. However, our current contract for this work requires the contractor to provide the results of its recommendation follow-up.

Rec #	Recommendation	Follow-Up Year	Status	SAO Review Comments
1	Analyze accounting and other records and compile data, by project, of improvement costs and the TIF debt that funded the costs. Expedite the analysis for Moran Frame and Great Streets as these projects are not complete.	2024	Partially Implemented	According to City staff, they thought the completion of the SAO audit meant that scrutiny of completed projects was at an end and that the recommended practices for project accounting were relevant only for in-process projects, namely Moran Frame and City-Place. The City provided general ledger reports for the Moran project for fiscal year (FY)21-FY23 and City Place project for FY18-FY23. The City Place general ledger reports show accounting to-date, but the Moran general ledger reports are incomplete as they do not include approximately \$3.6 million of Moran improvement costs paid for with TIF district debt proceeds from FY19-FY21. TIF Rule 1002 requires an accounting for all district improvements, including total cost, and an accounting of all district debt incurred, and any direct payments made for district improvements. The Vermont Economic Progress Council (VEPC) agreed that the City must provide a complete accounting of the improvement costs and TIF debt used to finance the costs for each project commencing in FY2011 and thereafter.
		2026		The three-year recommendation follow-up for this audit will be conducted in 2026.
2	Document and implement a procedure to ensure tax increment is not used for \$173,056 of Vermont Municipal Bond Bank (VMBB) principal and associated interest.	2024	Implemented	The City provided invoices totaling approximately \$173,000 related to the Moran project and indicated the invoices were eligible improvement costs and were being used to replace the invoices for the bike path rehabilitation that we noted were ineligible. According to descriptions in the invoices, these are costs for the Moran Frame improvement project which was authorized by VEPC and the City's voters and are for costs that meet the definition of improvements.
				No further follow-up is required because the recommendation was implemented.
3	Transfer \$37,717 from the General Fund to the Waterfront (WFT) TIF Fund.	2024	Implemented	To correct for numerous errors in the tax increment calculation, the City transferred \$37,717 to the WFT TIF Fund in FY2023.
				No further follow-up is required because the recommendation was implemented.

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4	Include the Downtown Improvement District (DID) tax in the calculation of municipal tax increment for nonresidential commercial properties.	2024	Implemented	The City included the DID tax rate in the FY2023 municipal tax increment calculation and indicated it will continue to do so but may seek a change to state law to enable the exclusion of DID going forward.
		No further follow-up is required because the recommendation was implemented.		
5	Adjust the WFT TIF Original Taxable Value (OTV) by \$847,602 to correct the omission of a taxable parcel.	2024	Not Implemented	According to the City, a meeting is scheduled with VEPC to review the recertification of the OTV and to correct OTV for the FY2025 tax increment calculation.
		2026	The three-year recommendation follow-up for this audit will be conducted in 2026.	
6	Transfer \$5,430 from the General Fund to the WFT TIF Fund.	2024	Implemented	The City transferred \$5,430 to the WFT TIF Fund in FY2024 to correct for overpayments to the State Education Fund.
		No further follow-up is required because the recommendation was implemented.		
7	Pay \$197,510 from the City General Fund to the State Education Fund.	2024	Not Implemented	The City indicated it planned to pay the State Education Fund \$83,786 by February 2025 for the portion of \$197,510 that resulted from excluding a taxable property from the 2017 certified OTV. For the remaining \$113,724, the City believes NEMRC is responsible for the failure to pay these funds to the State Education Fund and plans to challenge this recommendation. While there were programming errors made by NEMRC which affected the Waterfront TIF district property data transmitted to PVR, the City did not have processes in place to verify the appropriateness of data transmitted. The Vermont Department of Taxes advised the VEPC Executive Director that it is their understanding that the City is required to pay regardless of any errors in calculations. The Executive Director informed the City that it is "ultimately responsible for ensuring the correct taxable values are in the Grand List and for correct calculation of tax increment." Further, the City collected education property taxes from property owners in the TIF district and the funds that should have been sent to the State Education Fund, regardless of responsibility for the error, were instead kept in the City's General Fund.
		2026	The three-year recommendation follow-up for this audit will be conducted in 2026.	

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8	Implement a process to verify that the NEMRC system transmits the appropriate data to PVR.	2024	Not Implemented	According to the City, the City Assessor works with the Department of Taxes Property Valuation and Review division and NEMRC when inaccurate property valuations are identified in the system but indicated that the NEMRC coding errors identified during the SAO audit would not be remediated until the State replaces the NEMRC software. The Vermont Department of Taxes Property Valuation and Review Division plans to manually check the accuracy of the data transmitted via NEMRC and the Education Fund payments.
		2026		The three-year recommendation follow-up for this audit will be conducted in 2026. To the extent the error is not remediated by the next required audit in 2026, the effect will be calculated, and a recommendation will be made to the City to repay the State Education Fund.
9	Separate the Boathouse from the Waterfront Park parcel and include it on the City grand list as a taxable property, effective April 1, 2023.	2024	Implemented	The Waterfront Park Boathouse is in the Grand List for 2024-2025 as a taxable property.
				No further follow-up is required because the recommendation was implemented.
10	Transfer \$46,457 from the WFT TIF Fund to the General Fund.	2024	Implemented	In FY2021 the City mistakenly used General Fund resources to pay interest for the VMBB bond which should have been paid with the tax increment. The City recorded an adjustment to the WFT TIF Fund in FY2023 to correct the error.
				No further follow-up is required because the recommendation was implemented.
11	Transfer \$70,192 from the General Fund to the WFT TIF Fund.	2024	Implemented	To reverse the use of tax increment to pay for ineligible costs, the City transferred \$70,192 to the WFT TIF Fund in FY2023.
				No further follow-up is required because the recommendation was implemented.
12	Transfer \$1,114,198 in to the WFT TIF District from the City General Fund.	2024	Partially Implemented	To reverse the use of tax increment for WAN and Bike Path improvements above the amount authorized, the City transferred \$1,073,294 to the WFT TIF Fund in FY2023 and FY2024. According to the City, the additional \$40,904 will be transferred one an internal review is completed.
		2026		The three-year recommendation follow-up for this audit will be conducted in 2026.

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13	Establish proper accounting to track education and municipal portion of the WFT TIF Fund balance.	2024	Partially Implemented	In coordination with Municap, Inc., the City developed procedures to ensure accurate and consistent increment calculations and also provided a draft increment tracking spreadsheet which City staff are developing to better monitor available municipal and education tax increment.
		2026	The three-year recommendation follow-up for this audit will be conducted in 2026.	
VEPC-1	Require the City to provide complete and accurate records of improvement costs paid for with TIF debt for each project.	2024	Not Implemented	In a January 12, 2023 letter commenting on the draft audit report, VEPC agreed that for each project commencing in 2011, and thereafter, the City must provide records of all improvement costs paid for with TIF debt for each project. According to the VEPC Executive Director, VEPC staff are conducting monitoring visits for the WFT TIF district and will discuss the implementation of the recommendation at that time.
		2026	The three-year recommendation follow-up for this audit will be conducted in 2026.	
VEPC-2	Add a procedure to the annual WFT TIF District monitoring that will ensure other City funds, not tax increment, are used for \$173,056 of VMBB principal and associated interest payments.	2024	No longer applicable	The City provided other invoices for eligible improvement costs to replace those cost for the Bike Path rehabilitation project that were not eligible.
		No further follow-up is required because the recommendation is no longer applicable.		
LEG-1	Amend statute to specify whether noncompliance with public information and public vote procedural requirements could invalidate a vote or require a municipality to take steps to correct deficiencies.	2024	Not Implemented	There have been no changes to statute addressing this recommendation. We plan to communicate the importance of this recommendation to the appropriate legislative committees during the 2025 legislative session.
		2026	The three-year recommendation follow-up for this audit will be conducted in 2026.	
LEG-2	Clarify whether the excess education tax increment is required to be distributed to the State Education Fund at the end of FY2025.	2024	Not Implemented	There have been no changes to statute addressing this recommendation. We plan to communicate the importance of this recommendation to the appropriate legislative committees during the 2025 legislative session.
		2026	The three-year recommendation follow-up for this audit will be conducted in 2026.	

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LEG-3	Clarify the following for the tax increment calculation for the three parcels commencing in FY2026: <ul style="list-style-type: none"> • Date to use to establish base value • Percent of education tax increment that is required to be paid to the State Education Fund • Percent of municipal tax increment, required to be contributed to the WFT TIF Fund. 	2024	Not Implemented	There have been no changes to statute or the TIF Rule to clarify the tax increment calculation for the WFT TIF. We plan to communicate the importance of this recommendation to the appropriate legislative committees during the 2025 legislative session.
		2026		The three-year recommendation follow-up for this audit will be conducted in 2026.