Wisconsin Department of Revenue

# Tax Incremental Financing Manual

*(R. 11-22)*

**3. Complete the TID Final Audit (sec. 66.1105(6m)(b), Wis. Stats.)**

Municipality must:

- Have a Certified Public Accountant (CPA) complete the final audit for all revenue and expenditures during the TID life
- Save a copy of the audit in its TID records and does not need to submit a copy to DOR

**4. E-file the TID Final Accounting Report (PE-110) (sec. 66.1105(8)(c), Wis. Stats.)**

- Before the termination is final, the municipality must electronically file (e-file) the Final TID Accounting Report (Form PE-110) using MyDORGov
- TID Final Accounting Report (Form PE-110) is due to DOR based on the date agreed upon between the municipality and DOR on the Final Accounting Submission Date Agreement (Form PE-223)
- TID Final Account Report (Form PE-110) includes total expenditures and revenue during the TID life based on the final audit

If a municipality does not e-file this report within the specified timeframe, it will delay the certification of future TIDs. For more details on termination reporting, review (sec. 66.1105(8)(c), Wis. Stats.).

### Final Accounting Report must show either:

- Increment revenue paid all project costs and the TID account has a surplus. The municipality must return the excess increments to the overlying taxing jurisdictions in proportion to the amounts that belong to each taxing jurisdiction.
- Increment revenue did not cover the project costs and the TID account has a deficit. The municipality is responsible for paying the remaining debt.

The final TID account balance must be zero either after the surplus is distributed or after the municipality pays the remaining debt.

# III. Joint Review Board (JRB)

## A. JRB Purpose

State law requires a JRB to oversee each Tax Incremental District (TID). State law defines its members and responsibilities. JRB members represent a taxing jurisdiction (municipality, county, school, technical college). It is the JRB's responsibility to approve or deny the creation or amendment of a TID. When the JRB approves a TID, it agrees the development needs Tax Incremental Financing (TIF) to proceed. The JRB jurisdictions agree to sacrifice some amount of tax revenue for years into the future expecting the tax base will ultimately increase.

## B. JRB Members

The JRB consists of one representative from each taxation jurisdiction (school district, technical college, county, municipality), and one public member.

### District representatives

- **School –** the school board president, or their designee with preference to the school district's finance director. If the TID is located in a union high school district, the school seat is shared by the union high school representative and school district representative; each having one-half vote.
- **Technical college –** the technical college district director, or their designee with preference to the district's chief financial officer
- **County –** the county executive or the county board chairperson, or this person's designee with preference to the county treasurer

- **City/village/town –** the mayor or city manager, the village board president, town board chairperson or their designee with preference to the person who administers the economic development programs, the municipal treasurer or another person with knowledge of local government finances
- **Public member –** a majority of the other members chooses the public member at the JRB's first meeting. State law has no requirements for the public member. A public member can be appointed as chairperson. For a multijurisdictional TID, each participating municipality may appoint one public member.

If more than one school, union high school, technical college or county district has the power to levy taxes on the property within the TID, the district with the greatest **value** chooses the representative to the JRB.

**Examples:**

- School District "A" serves 75% of the area in the TID, but only has 40% of the TID value. School District "B" serves 25% of the area in the TID but has 60% of the TID value. District "B" chooses the JRB member.
- In the case of a territory amendment, if adding property from one county to an existing TID in a different county, the county with the majority value chooses the JRB member. The calculation to determine majority value is the existing base value plus the additional parcels' current value.

## C. JRB Procedures

### 1. Organize the JRB

- When creating a TID, the municipality must send the overlying taxing districts a letter with a copy of the public hearing notice (by first class mail before the notice is published) to request a representative serve on the JRB
- Within 14 days after the public hearing notice is published and before the public hearing, all JRB members must be appointed and the first organizational meeting held. At the organizational meeting, the members must select a public member and chairperson by majority vote. They may also review details of the TID proposal. **Note:** For any TID amendment, state law requires an initial JRB meeting before the public hearing
- Any JRB member may request additional JRB meetings or public hearings
- At all JRB meetings, one of the members must take minutes and record votes. The municipality must keep the minutes in the TID records.
- The municipality must publish a notice for any JRB meeting at least five days before the meeting, under state law (ch. 985 and sec. 66.1105(4m)(e), Wis. Stats.). This does not apply to town TIDs created under sec. 60.85, Wis. Stats. or Environmental Remediation TIDs created under sec. 66.1106, Wis. Stats.

### 2. Approve or deny the resolution

- After receiving the municipal resolution, the JRB must meet again to vote on the resolution:
  - » **Within 45 days –** City/Village TIDs created under sec. 66.1105, Wis. Stats.
  - » **Between 10 days and 45 days –** Town TIDs created under sec. 60.85, Wis. Stats. or Environmental Remediation TIDs created under sec. 66.1106, Wis. Stats.
- The JRB adopts its own resolution to document its decision based on the three criteria required in state law

### 3. Respond to municipality

- JRB must respond to municipal officials within seven days of its decision
- If the JRB rejects a resolution, the JRB must explain in writing why the proposal did not meet the decision criteria

## D. JRB Document Review

The municipality must provide the JRB with specific information under state law (secs. 66.1105(4)(i) and 60.85(3)(k), Wis. Stats.). JRB members may request missing or additional information.

### 1. Required information the municipality must provide

- Specific projects and costs, including the amounts expected to be paid by tax increments and the estimated tax increments over the life of the TID
- Value increment after project costs are paid and the TID terminates
- Reasons why the property owners benefitting from the improvements within the TID should not pay the project costs
- Share of the projected tax increments estimated to be paid by the property owners in each of the overlying taxing jurisdictions
- Benefits the taxpayers will receive to compensate for their share of the projected tax increments

### 2. Additional information the JRB must review (sec. 66.1105(4m)(b)1., Wis. Stats.)

- **Public records –** copies of the public hearing minutes and notices
- **Planning documents –** copies of the project plan and signed development agreement, if applicable
- **Resolutions –** copies of the Planning Commission and municipal resolutions

### 3. Additional information the JRB may request

- **Economic feasibility study –** detailing the projected tax increments and estimates of increased property values
- **For multijurisdictional TIDs –** copy of the signed intergovernmental agreement created under state law (sec. 66.0301, Wis. Stats.). The agreement must provide the specific information listed in sec. 66.1105(18)(b), Wis. Stats.

## E. JRB Decision Criteria

The JRB must make a decision based on the documents and information provided by the municipality and three criteria found in state law (secs. 66.1105(4m)(c), 66.1106(3)(c), and 60.85(4)(c), Wis. Stats.). The JRB must determine whether the:

1. Development expected in the TID would occur without the use of TIF ("but for" requirement)
2. Economic benefits of the TID, as measured by increased employment, business and personal income and property value, are sufficient to compensate for the cost of the improvements
3. Benefits of the proposal outweigh the anticipated tax increments to be paid by the property owners in the overlying taxing jurisdictions

Each criterion is important to ensure the TIF project is beneficial for all taxpayers in the overlying taxing jurisdictions. Many consider the first criterion, the "but for" requirement, the most important. "But for" gets its name from the phrase, "This development would not happen but for the financial support of TIF." This means the project is not economically viable without the use of TIF to pay for the infrastructure improvements. Review But for Requirement for more information.

### Questions to consider

1. Would the expected development occur without ("but for") the use of TIF? Would the development occur if the project was scaled back or the timeframe pushed out? Did similar projects proceed without the use of TIF?
2. Will the development's economic benefits measured by increased employment, business and personal income and property value, compensate for the cost of the improvements?
3. Do the benefits outweigh the taxes residents of overlying districts are expected to pay?
4. How does the planned development fit into the overall economic picture in the district? How does the development fit with other development in the district? Will the potential businesses benefit the district in the long term? How many and what type of jobs will this development create?

5. How does the TID benefit taxpayers in my district? Is the total expenditure for eligible project costs feasible?
6. Is there a better use for the development site, the tax revenue and the limited TIF capacity?
7. What is the general opinion of my district's residents on this TID?
8. How will the planned development affect the demand for services in my district? Consider items such as: increased population, traffic impact, fire and police protection, emergency medical services, water, sewer, administrative services, increased student population, demand for training or housing.
9. Is the developer receiving a subsidy, such as a cash grant, incentive or forgivable loan? If so, how was the need and benefit analyzed? Is there a written developer's agreement? Was the public informed of the developer's subsidy in the published hearing notice?
10. What guarantees are in place to ensure the development will occur as anticipated and the property value will increase as expected?

## F. DOR Review Procedure

Under state law (sec. 66.1105(4m)(b)4., Wis. Stats.), the JRB may request DOR review the facts contained in the documents listed in Additional information the JRB must review.

### 1. To request a DOR review

- Majority of the JRB members must support the request
- JRB must submit a written request to DOR and must specify which fact or item the members believe is inaccurate or incomplete
- Review JRB Request for DOR Review for more information

### 2. DOR review

- Within 10 working days of receiving a request for review that complies with the filing requirements, DOR will investigate the issues raised and send a written response to the JRB
- If DOR determines the information does not comply with state law or contains a factual inaccuracy, the JRB may request (but may not require) that the municipality correct and resubmit the proposal for review
  - » **If the municipality resubmits the proposal –** the JRB must vote to approve or reject based on the criteria in state law. The JRB must submit its decision to the municipality within 10 working days after receiving the resubmitted proposal.
  - » **If the municipality does not resubmit the proposal –** the TID is not certified
- If DOR does not identify any factual inaccuracies, the JRB must vote to approve or reject as otherwise specified in state law. The JRB must submit its decision to the municipality within 10 working days of receiving DOR's written response.

## G. After the JRB approves a TID

- Municipality sends DOR a request to certify the TID and includes all the required documents. If DOR determines procedures were followed, DOR will email the municipality a certification letter.
- While the TID is active, the JRB must meet yearly to review the annual performance and status of the TID based on the annual report (secs. 60.85(4)(d), 66.1105(4m)(f) and 66.1106(3)(e), Wis. Stats.)