



Oakland County Policy Improves Its Review of Tax Incremental Financing Authorities

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As the economy continues to improve, more communities within the State of Michigan are considering using tax increment financing (TIF) to improve distressed areas. As a result, Oakland County, Michigan, needed to fairly evaluate proposals and to protect its budget by establishing a limit on county revenue available for revitalizing distressed areas. Additionally, the county has advocated unsuccessfully for several years to change state law to sunset TIF districts that are able to capture revenue without an end date. As a result, the county created and implemented the Policy for Review and Potential Participation in Downtown Development Authorities (DDA), Corridor Improvement Authorities and Local Development Financing Authorities and Limitation on Tax Capture by all TIF Authorities. The policy gives the county the ability to exit some of the older TIF plans when a new district or new TIF plan is proposed by a community with an older plan in place.

A CLEAR REVIEW PROCESS

The Oakland County policy addresses how the county will evaluate its potential participation in the DDA or TIF plan by providing objective criteria for consideration and a clear review process. Several types of entities are allowed to use tax increment financing in Michigan. The primary ones in use are DDA and Corridor Improvement Authorities (CIA); Local Development Financing Authorities (LDFAs) also exist. State law gives taxing jurisdictions that are subject to capture 60 days to opt out of participation in the creation of a DDA or the establishment of a TIF plan by a CIA. The 60-day period begins after a local unit of government holds a public hearing to adopt its plans.

Before Oakland County implemented its policy, the County Board of Commissioners had multiple resolutions addressing DDAs, CIAs, and LDFAs separately. None of the resolutions provided an overall limit to the county's participation in these plans. Before state law was changed in 1994, the county and other entities subject to capture did not have the right to opt out of these arrangements when they were established. The county would like to set an end date on the capture of county tax revenue for several TIF entities created before 1994.

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The policy sets forth eight requirements that municipalities must meet if they are seeking county participation. Many of these requirements are to ensure that the plans are well thought out and that other sound economic principles are being used. For example, those seeking county approval must provide financial projections that demonstrate a positive return on investment as well as an improvement in employment and taxable values. They also have to include the number and types of new and retained jobs, and a projection of tax-based growth for the entire capture period must be provided.

In addition, the policy establishes separate performance standards as guidelines for reviewing DDAs, CIAs, and LDFAs. For example, DDAs are expected to demonstrate declining property values, and that those declines were caused by factors such as blight, reduced building occupancy rates, or below-market rent values. The policy is sufficiently flexible to allow for deviations, should an exception plan warrant it.

The policy explains the county review process in depth. Each agreement for county participation must contain a maximum dollar amount of tax capture and maximum number of years. The county's participation ends when one of those targets is reached. The review process gives each potential plan presented to the county a fair and well-considered evaluation.

OPT-OUT AND PARTICIPATION CONTRACTS

The county is required to make sure that all local entities that are able to use tax increment financing receive a copy of the policy every other year so they are fully informed of the county's process, criteria, and limitations. The policy requires the county to opt out of having its taxes captured during the statutory time frame permitted if it does not have time to fully evaluate a proposal and enter into a contract. The opt-out requirement should alert municipalities that they cannot take for granted the right to collect tax revenue from entities that access taxes in their jurisdictions.

The requirements for each TIF participation contract are delineated, particularly the need to have the tax collection last up to a set number of years or a set dollar amount, which-

ever occurs first. The policy specifies the process of review by the administration and by the legislative branch. One noteworthy feature of the policy is that it gives preference to municipalities that do not already have a DDA or TIF plan in place. This feature gives all municipalities within Oakland County the opportunity to have the county participate in their TIF plans. More importantly, it gives the county the opportunity to require an older DDA, CIA, or LDFA to cease collecting county tax revenue before the county will agree to participate in a new TIF plan in the same municipality.

The policy places an overall limit on the amount of tax revenue the county may contribute to distressed districts created under the TIF laws and Brownfield Redevelopment law. The county may not be able to opt out of older TIF plans or Brownfield plans, but when a new plan is proposed, the policy enables the county to consider its impact on revenue from pre-existing TIF plans. The policy provides criteria to use in evaluating each proposal and a process for each community to follow at the start of their planning process, if they would like county participation. The policy specifies requirements for every contract the county enters into and establishes monitoring through annual reports and in-person updates to the county's TIF Review Committee.

DEMONSTRATED IMPACT

Entities the county chooses to contract with for the capture of its tax revenue must report to the county annually to demonstrate the impact their plan is having on the tax base and on existing businesses. The policy requires that economic development services available at the county, such as its One Stop Shop Business Center, which provides business counselors, are shared with investors and businesses in the district to foster greater success for the project. In addition, the committee that reviews proposals after their initial review and approval by administration is made up of individuals from the departments of Equalization/Assessment, Economic Development, and Corporation Counsel, and the County Treasurer and members of the Board of Commissioners. This provides a broad area of expertise and contributes to a non-partisan evaluation component.

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Several communities now include within their development and TIF plans an explanation of how their plan addresses the county's criteria. In the past, the county learned about most of the DDA creations or the proposed use of TIF plans from public hearing announcements that appeared in the mail. The 60-day time had already started, and the county had little time to react. After the policy was adopted,

more communities started talking to the county about their plans long before the plans were finalized to make sure they were likely to receive county participation in their plans. Because of the policy, the county has had in-depth discussions with several communities and helped them make improvements to their plans, resulting in county participation and potentially a better plan for development.

BEST PRACTICES

The policy implements GFOA's *Best Practice Recommendation for Economic Development Incentive Policies* (available at gfoa.org). As the best practice suggests, Oakland County's policy has clear boundaries that are not overly restrictive, as they allow for flexibility in determining if the county should participate in a municipality's economic incentive plans. Measurable economic development goals are provided as well as dollar amounts/percentages, time limits, and types of projects that are eligible. There is a clearly defined evaluation process for initial and follow-up review.

The County Economic Development Department provided benchmarks to use in measuring whether a TIF plan is improving the targeted area. Measurements include the number of new businesses locating in the area, the number of new jobs created, the amount of private-sector investment received, and the increase/decrease in the taxable value of the district. The treasurer's office provided an analysis of all tax captures within the county, which enabled administration and elected officials to understand their fiscal impact on the county's budget and helped with the setting of an overall limit on these financing tools. The county's Corporation Counsel's Office was key in writing an understandable policy that incorporates the many nuances and complexities as well as serving as the lead for negotiating, drafting, and eventually executing the subsequent contracts with the participating municipalities.

HOW IT'S WORKING

Since the comprehensive policy went into effect in 2015, communities are contacting the county to discuss their plans prior to them being presented at a public hearing. Even if a plan was written prior to presenting it to the county for discussion, communities are willing to revise their plans to meet the county policy requirements. Two communities that established districts prior to the date the county could opt out of their creation were willing to work with the county to establish contracts under the terms of the policy. Two municipalities with older TIF districts agreed to cease operating their DDAs as consideration for the county agreeing to participate in new TIF plans. All entities entering into contracts with the county since the policy has been enacted have provided the required information, explained their plans to the TIF Review Committee, and executed contracts consistent with the terms of the policy.

CONCLUSIONS

Municipalities that use tax increment financing or a similar

financing approach can look to Oakland County's policy for guidance on how to establish procedures to review proposals; criteria to evaluate plans and monitor their success; and recommendation on limitations for the percentage and amount of revenue that may be captured by entities using similar economic stimulation tools. The policy is proactive in nature, as it encourages discussions in the early stage of planning by the local units of government. This policy contributes to fostering strong communications between taxing entities and the jurisdictions subject to their tax capture, and it lets municipalities know early in their planning process what the county requires for its involvement. ■

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05-16-0743