12- C -0786

A COMMUNICATION BY CITY AUDITOR LESLIE E. WARD:

SUBMITTING THE PERFORMANCE AUDIT REPORT REGARDING TAX ALLOCATION DISTRICTS.

FILED
AUG 2 0 2012

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1ST ADOPT 2ND READ &REFER
- ☐ PERSONAL PAPER REFER

Date Referred: 6/4/12
Referred To: Fin/Exec
Date Referred:
Referred To:
Date Referred:
Referred To:

First Reading

Committee
Date
Chair
Referred To

Committee Finance/Executive
Date 6/13/12
Chair
Action
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

Committee COC Yadrean
Date 8/20/12
Chair
Action
Fav, Adv, Hold (see rev. side)
Other File
Members
Joyce M. Sheperd
Felicia A. Moore
K. Bottoms
Cleta Winslow
Refer To

Committee Finance/Executive
Date 8/1/12
Chair Felicia A. Moore
Action
Fav, Adv, Hold (see rev. side)
Other File
Members
Yadrean
Refer To COC

Committee
Date
Chair
Action
Fav, Adv, Hold (see rev. side)
Other
Members
Refer To

FINAL COUNCIL ACTION
☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

CERTIFIED
AUG 2 0 2012
ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
AUG 2 0 2012
Rhonda Dauphin Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

RCS# 2215
8/20/12
3:57 PM

Atlanta City Council

MULTIPLE 12-C-0786 AND 12-C-0977

FILE

YEAS:	11
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	3
EXCUSED:	1
ABSENT	1

Y	Smith	B	Archibong	Y	Moore	Y	Bond
Y	Hall	Y	Wan	Y	Martin	NV	Watson
NV	Young	Y	Shook	Y	Bottoms	Y	Willis
Y	Winslow	E	Adrean	Y	Sheperd	NV	Mitchell

CITY OF ATLANTA

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AUDIT COMMITTEE
Fred Williams, CPA, Chair
Donald T. Penovi, CPA, Vice Chair
Marion Cameron, CPA
C.O. Hollis, Jr., CPA, CIA
Ex-Officio: Mayor Kasim Reed

June 13, 2012

Councilmember Felicia Moore, Chair, and Members,
Finance Executive Committee, Atlanta City Council

Councilmembers:

With this letter, the Audit Committee wishes to provide City Council with our recommendations for personnel actions in the city auditor's office and to share with you our reasoning in making them. I speak for the committee in saying that our requests, all of which are funded in the proposed budget for the City Auditor, are necessary to retain senior staff, address pay inequities, and maintain the leadership and institutional knowledge we need to sustain the quality of work and national reputation that the city auditor's office has built.

We reviewed the city auditor's budget and current audit staff compensation at our December 2011and March 2012 meetings. At the March meeting, we approved the fiscal year 2013 budget request, including salary adjustments for four employees, for submittal to the administration and inclusion in the personnel ordinance that accompanies the budget. The city auditor was informed in April that the budget request was approved for inclusion in the proposed 2013 budget, but the salary adjustments were not. After further discussion, three of the four requested adjustments are now incorporated in the substitute personnel ordinance brought forth by the administration today.

Unfortunately, one of our original requests is no longer needed; the incumbent has since resigned and accepted a similar position with a federal government agency in Atlanta, with a 10 percent increase in salary, more generous benefits, and greater prospects for advancement. This departure brings audit staff turnover in fiscal year 2012 to 40 percent; 4 of the 10 professional staff left the city auditor's office this year, and 3 of the 4 left for better opportunities. In addition, several remaining senior staff members have been recruited by local firms and by other governments during the last year.

12- C-0786

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TO: Mayor Reed, President Mitchell, and City Council members

FROM: Leslie E. Ward Leslie Ward

DATE: May 30, 2012

SUBJECT: **Performance Audit: Tax Allocation Districts**

The report listed above is attached for your review. Feel free to contact me if you have questions or want to discuss the report.

Cc:
Duriya Farooqui, Interim Chief Operating Officer, Mayor's Office
Hans Utz, Deputy Chief Operating Officer, Mayor's Office
Candace Byrd, Chief of Staff, Mayor's Office
Katrina Taylor, Deputy COS, Mayor's Office
Sonji Jacobs, Director of Communications, Mayor's Office
David Bennett, Senior Policy Advisor, Mayor's Office
Cathy Hampton, City Attorney
Peter Andrews, Deputy City Attorney
Jim Beard, Chief Financial Officer
Stefan Jaskulak, Deputy Chief Financial Officer
John Gaffney, Controller
Brian McGowan, Invest Atlanta, President and CEO
Ernestine Garey, Invest Atlanta, Executive Vice President and Chief Operating Officer
Amanda Rhein, Invest Atlanta Senior Project Manager, Redevelopment
Douglas Ray, Invest Atlanta, Chief Financial Officer
Lisa Gordon, Chief Operating Officer, Atlanta BeltLine, Inc.
Brian Leary, President and CEO, Atlanta BeltLine, Inc.
Jabu Sengova, Interim Ethics Officer
Rhonda Dauphin Johnson, Municipal Clerk
Dexter Chambers, Director, City Council Office of Communications
Stephen Tam, CDHR Committee Analyst
Reggie Grant, Finance Committee Analyst
Audit Committee

Performance Audit:
Tax Allocation Districts

May 2012

City Auditor's Office

City of Atlanta

File #11.06

CITY OF ATLANTA
City Auditor's Office
Leslie Ward, City Auditor
404.330.6452

May 2012

Performance Audit:

Tax Allocation Districts

What We Found

Neither the city nor its redevelopment agent, Invest Atlanta, systematically tracks progress toward meeting redevelopment plan goals. The redevelopment plan for each tax allocation district is adopted by ordinance following public hearing. The redevelopment plan establishes the district's geographic boundaries; explains why the area requires public subsidy; outlines the scope of the economic development projects and project costs; estimates the frozen tax base and tax increment amounts; and identifies plans to issue bonds. Without systematic tracking of progress compared to the redevelopment plan, the city lacks a mechanism to tell when a redevelopment plan is substantially complete and no more public subsidy is needed.

Planned redevelopment projects in Atlantic Station, Eastside, Westside, and Princeton Lakes are substantially complete and the city has collected more increment than needed to pay annual debt service. Intergovernmental agreements specific to individual tax allocation districts and individual bond provisions define excess increment differently but generally provide for paying down debt or returning the excess to the taxing jurisdictions. The city has no policy for handling this accumulated surplus increment. In the absence of a policy, the city could spend more than is necessary on soft costs, continue to subsidize development when public support is no longer needed, or let resources sit idle.

Trends in assessed values citywide and in tax allocation districts illustrate that public investment has spurred substantial growth in property value within the districts but also show that districts have captured inflationary growth, thus reducing the city's fiscal capacity to provide services within the districts and citywide. No projects have begun in Hollowell/M.L. King and Stadium Neighborhoods. Invest Atlanta's policy on minimum project size in the corridor districts may be a barrier to small developers.

Redevelopment plans for eight of the city's ten tax allocation districts listed high poverty and unemployment among the reasons for establishing the district. While Invest Atlanta does not track whether the number of jobs created met redevelopment plan goals, 2010 census data shows that socio-economic conditions in tracts containing tax allocation districts improved relative to the rest of the city since 2000. Despite progress, these areas still lagged the city as a whole in measures of poverty and unemployment, and vacancy rates are higher.

While Invest Atlanta has processes in place to control developer costs, it does not subject its own operating costs and those of its affiliate Atlanta BeltLine, Inc., to the same scrutiny and oversight.

Why We Did This Audit

We undertook this audit because the city's use of tax allocation districts to finance redevelopment has grown to encompass 20% of the city's land area and 15% of total assessed property value.

What We Recommended

To improve oversight and accountability of use of public funds generated by the tax allocation districts, the chief operating officer should:

- Propose for City Council approval modifications to the city's service agreement with Invest Atlanta to require it to develop and report annual evaluations of each tax allocation district to assess progress towards completing specific projects and achieving goals established in the redevelopment plan.
- Develop a policy to review annually surplus increment once the redevelopment plan is substantially completed and establish criteria for using surplus increment.
- Before seeking reallocation of increment to new projects, require Invest Atlanta to prepare for City Council consideration an amendment to the existing redevelopment plan.
- Work with Invest Atlanta to re-evaluate its redevelopment strategies in the corridor districts as appropriate, considering current economic conditions in those districts.

The chief financial officer should:

- Propose for City Council approval revisions to the city's service agreement with Invest Atlanta to:
  - include preparation of financial reports at least annually showing how public funds were used to support tax allocation district redevelopment plans
  - require Invest Atlanta and its affiliates to provide detailed budgets at least annually showing proposed uses of tax allocation district funds by fund

For more information regarding this report, please contact Stephanie Jackson at 404.330.6678 or sjackson@atlantaga.gov

Management Responses to Audit Recommendations

Summary of Management Responses		
Recommendation #1:	The chief operating officer should propose for City Council approval modifications to the city's service agreement with Invest Atlanta to require it to develop and report annual evaluations of each tax allocation district to assess progress towards completing specific projects and achieving goals established in the redevelopment plan.	
Response & Proposed Action:	We generally agree with the audit recommendation and will develop an implementation plan and timeframe.	**Agree**
Timeframe:	To be determined.	
Recommendation #2:	The chief operating officer should develop a policy to review annually surplus increment once the redevelopment plan is substantially completed and establish criteria for using surplus increment to pay down debt, return excess increment to participating jurisdictions, or reallocate surplus increment to a debt service reserve or for a specific development project.	
Response & Proposed Action:	We generally agree with the audit recommendation and will develop an implementation plan and timeframe.	**Agree**
Timeframe:	To be determined.	
Recommendation #3:	Before seeking reallocation of increment to new projects outside the intended scope of the redevelopment plan, the chief operating officer should require Invest Atlanta to prepare for City Council consideration an amendment to the existing redevelopment plan that includes at a minimum: • establishment of the "but-for" clause for the projects within the expanded scope • proposed specific uses of funds • anticipated benefits to be produced by the private sector entity receiving assistance • description of sanctions, such as a claw back provision, for failure to meet goals	
Response & Proposed Action:	We generally agree with the audit recommendation and will develop an implementation plan and timeframe.	**Agree**
Timeframe:	To be determined.	
Recommendation #4:	The chief operating officer should work with Invest Atlanta to re-evaluate its redevelopment strategies in the corridor districts as appropriate, considering current economic conditions in those districts.	
Response & Proposed Action:	We generally agree with the audit recommendation and will develop an implementation plan and timeframe.	**Agree**
Timeframe:	To be determined.	
Recommendation #5:	The chief financial officer should propose for City Council approval revisions to the city's service agreement with Invest Atlanta to: • include preparation of financial reports at least annually showing how public funds were used to support tax allocation district redevelopment plans. • require Invest Atlanta and any of its affiliates to provide detailed budgets at least annually showing proposed uses of tax allocation district funds by fund.	
Response & Proposed Action:	We generally agree with the audit recommendation and will develop an implementation plan and timeframe.	**Agree**
Timeframe:	To be determined.	

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May 29, 2012

Honorable Mayor and Members of the City Council:

We undertook this audit of the tax allocation districts because of growth in the city's use of the program to finance redevelopment. Tax allocation districts encompass 20% of the city's land area and 15% of real property assessed value. Data on completed projects are now available to assess how well the program is meeting its intended goals.

The city has issued $636 million in bonds to finance projects in Princeton Lakes, Westside, Eastside, BeltLine and Atlantic Station tax allocation districts since 2001. Most of the bond-funded projects have been completed, and the bond funds have been either spent or committed to ongoing or future projects. Invest Atlanta, however, has no criteria for determining when a redevelopment plan is complete and has no policy for handling surplus increment once the redevelopment plan goals have been met. Invest Atlanta's reporting highlights accomplishments within the districts but does not assess progress toward meeting redevelopment plan goals. Bonds have not been issued and few projects, if any, have been completed in the corridor districts, which include the Stadium Neighborhoods, Hollowell/M.L. King, Campbellton Road and Metropolitan Parkway districts.

Our recommendations to the city's chief operating officer and chief financial officer focus on improving accountability and oversight of the funds generated by the tax allocation districts, as well as re-evaluating development strategies in the corridor districts. Their responses, indicating their agreement, are included in Appendix D. Comments from Invest Atlanta are shown in Appendix E. We responded to some of those comments in Appendix F.

The Audit Committee has reviewed this report and is releasing it in accordance with Article 2, Chapter 6 of the City Charter. We appreciate the courtesy and cooperation of city staff throughout the audit. The team for this project was Christopher Armstead, Rhonda Sadler, Sterling Thomas, Melissa Davis, and Stephanie Jackson.

Leslie Ward
City Auditor

Fred Williams
Audit Committee Chair

Tax Allocation Districts

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List of Exhibits

Introduction

We conducted this performance audit of the city's tax allocation districts pursuant to Chapter 6 of the Atlanta City Charter, which establishes the City of Atlanta Audit Committee and the City Auditor's Office and outlines their primary duties. The Audit Committee reviewed our audit scope in October 2011.

A performance audit is an objective analysis of sufficient, appropriate evidence to assess the performance of an organization, program, activity, or function. Performance audits provide assurance or conclusions to help management and those charged with governance improve program performance and operations, reduce costs, facilitate decision-making and contribute to public accountability. Performance audits encompass a wide variety of objectives, including those related to assessing program effectiveness and results; economy and efficiency; internal controls; compliance with legal or other requirements; and objectives related to providing prospective analyses, guidance, or summary information.[1]

We undertook this audit because the city's use of tax allocation districts to finance redevelopment has grown to encompass 20% of the city's land area and 15% of total assessed property value. Data on completed projects are now available to assess how well the program is meeting its intended goals.

Background

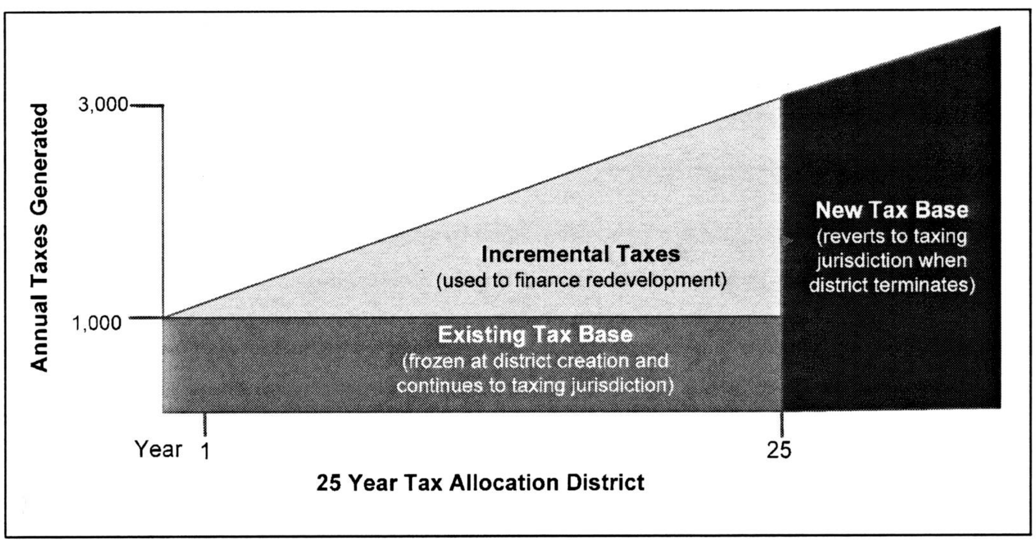
A tax allocation district is a geographic area that the city legislatively designates as having potential for development but with conditions that make it unattractive for development without public subsidy. The city provides financial incentives to developers to make improvements in the district, and pays for the incentives from property taxes collected on the increased property value within the district. This funding mechanism is also called tax increment financing. The *increment* is calculated based on growth in assessed property value within the district after it is established. The city sets aside the increment in a special revenue fund used to pay for development. The increment can fund improvements on a pay-as-you-go basis or the anticipated increment can back bonds to pay

[1] Comptroller General of the United States, *Government Auditing Standards*, Washington, DC: U.S. Government Accountability Office, 2007, p. 17-18.

for improvements, with the increment providing the revenue stream to retire the debt. The *base* is the amount of property tax collected on the assessed value of the district when it was established. The city continues to collect base revenue for its general operations throughout the duration of the tax allocation district. Overlapping taxing jurisdictions that also benefit from the development – Fulton County and Atlanta Public Schools – can pledge their increments to help finance the development.

Exhibit 1 illustrates how a tax allocation district generates revenue. In this theoretical example, the base generates $1,000 in tax revenue per year over the 25 years that the district is in effect and is available to fund general government operations. The amount of taxes collected each year that exceeds $1,000 finances the redevelopment. After 25 years, the district expires and all tax revenue reverts to the participating taxing jurisdictions.

Exhibit 1 How a Tax Allocation District Generates Revenue



Source: Adapted from the *Tax Increment Finance Best Practices Reference Guide*, 2007, p. 2

State Law Authorizes Use of Tax Allocation Districts for Redevelopment

Georgia's Redevelopment Powers Law authorizes local governments to create tax allocation districts to encourage development in areas that are "blighted" or "socially and economically depressed."[2] The law

[2] O.C.G.A. § 36-44-1 through §36-44-23.

identifies *blight* as one or more of the following conditions that hinder redevelopment:

- buildings and other structures that "are detrimental to the public health, safety, morals, and welfare" because they are older, vacant, or dangerous
- the predominance of a defective or inadequate street layout or transportation facilities
- high poverty (greater than 10% of the population in the area, based on census data) and unemployment (10% higher than the state average)
- environmental contamination
- airport or transportation related noise

The law provides cities with flexibility to work with the private sector to reduce impediments to redevelopment and improve the economic and social conditions within the districts.

State law broadly defines redevelopment. The city has broad authority to use tax increment revenue to finance redevelopment within the district. *Redevelopment*, as defined in state law, includes any activity, project or service necessary to develop or revitalize an area designated for redevelopment by a redevelopment plan. Examples include: building or repairing public or private housing, commercial facilities, greenspace, telecommunications facilities, transportation components, historical sites, public works or facilities, restoring or maintaining public art and arts facilities, or improving or increasing property value.[3] The city can pay contractors and consultants for construction costs, professional services, and administrative costs. The city can pay for imputed administrative costs, including reasonable charges for time spent by public employees in connection with implementing redevelopment plans. The city can also make payments in lieu of taxes to a participating political subdivision to compensate for diverted tax revenues as long as these payments are less than the subdivision's increment for the year. State law prohibits increment derived in one district from being spent on another district.[4]

City Council designated Invest Atlanta as its redevelopment agent. State law permits the city to delegate its authority to manage tax allocation districts to a redevelopment agency. [5] The city established the Atlanta Development Authority, which the mayor recently renamed

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[3] O.C.G.A. § 36-44-3(5).
[4] O.C.G.A. §36-44-11(c).
[5] O.C.G.A. § 36-44-4.

Invest Atlanta, to serve as the city's economic development agency. Invest Atlanta is a public corporation responsible for managing several economic development programs on behalf of the city including bond financing, loan programs to stimulate job creation, tax allocation district financing, new market tax credits, and affordable workforce housing.

Invest Atlanta received two-thirds of its fiscal year 2011 revenue from charges for services, including income from development properties held, service fees, and loan fees. Its fiscal year 2011 operating budget was approximately $8 million. Invest Atlanta, with 51 full-time positions budgeted, has six divisions. In addition to dedicated finance personnel, its tax allocation districts division includes eleven employees who assist in administering the redevelopment program. According to Invest Atlanta staff, in most instances, salary and benefit costs are recovered from the districts in proportion to the amount of time spent by staff on those districts.

A nine-member board of directors governs Invest Atlanta. The mayor chairs the board and appoints one representative from the Atlanta Planning Advisory Board, two members with experience in business and finance, and one representative nominated by the Fulton County Board of Commissioners. City Council appoints two members with experience in business and real estate and one member nominated by the Atlanta Public Schools Board of Education. The chair of the City Council's Community Development and Human Resources Committee serves as the board's vice chair.

Invest Atlanta created Atlanta BeltLine, Inc., a nonprofit corporation, in 2006 to serve as implementation agent of the corporation to manage the BeltLine tax allocation district. Atlanta BeltLine, Inc. is responsible for implementing the projects in the redevelopment plan, acquiring property, and carrying out other redevelopment activities delegated by Invest Atlanta, in accordance with the nonprofit's articles of incorporation. The BeltLine tax increment pays redevelopment costs incurred by both Invest Atlanta and the Atlanta BeltLine, Inc.

State Law Requires a Redevelopment Plan to Guide District Activities

State law requires the City Council to approve a redevelopment plan in order to create a tax allocation district. The plan must explain how the proposed district qualifies for public subsidy (known as the "but for" test) and lay out the district's current tax value, describe the proposed projects and estimated costs, and identify plans for issuing bonds. State law prescribes no limits to how long a tax allocation district may be in effect, but limits individual bond obligations to a 30-year maturity.

The redevelopment plan establishes the reasons for the tax allocation district. In order to create a district, state law requires the redevelopment agency to create a redevelopment plan that:

- maps the boundaries of the proposed district
- describes the current property uses and condition
- satisfies a "but-for" test, which explains the basis for determining that the proposed area has not had growth and likely would not without plan approval
- describes property uses after redevelopment
- proposes projects, estimates costs, and describes financing sources
- describes any proposed contracts or agreements with terms greater than one year
- provides the last known assessed value of the redevelopment area and estimates the assessed value after redevelopment
- lists effective date and termination date of the district
- estimates the tax allocation increment base of the district
- estimates the property taxes that will be included for computing increment
- describes the proposed bond amounts, terms and interest rates
- estimates positive tax allocation increment for the period covered by proposed bonds
- provides a school system impact analysis addressing the financial and operational impact of redevelopment if school taxes are pledged[6]

State law requires the City Council to hold public hearings to discuss the plan and advertise the proposed vote five days prior to approving the redevelopment plan (see Exhibit 2).[7] The City Council can legislatively amend an approved plan, but must first follow the same public hearing process that it did to approve the original. State law also requires redevelopment plan goals to be in line with the city's overall economic development plan and consistent with the city's comprehensive plan.

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[6] O.C.G.A. § 36-44-3(9) and O.C.G.A. § 36-44-8.

[7] O.C.G.A. § 36-44-7.

LARGE

ATTACHMENT(S)

DOCUMENT(S),

MANNUAL(S)

OR

MAP(S)

NOT COPIED