

Wisconsin Department of

**Revenue**

**2019**

**Tax Incremental Financing  
Manual**

*(R. 1-19)*

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## I. General Background

### A. Tax Incremental Financing (TIF) Definition

#### 1. Basic function of TIF

TIF is a financing option that allows a municipality (town, village or city) to fund infrastructure and other improvements, through property tax revenue of newly developed property. A municipality identifies an area, the Tax Incremental District (TID), as appropriate for a certain type of development. The municipality identifies projects to encourage and facilitate the desired development. Then as property values rise, the municipality uses the property tax paid on that development to pay for the projects. After the project costs are paid, the



municipality closes the TID. The municipality, schools, county, and technical college are able to levy taxes on the value of the new development.

TIF use varies depending on the project and the municipality. In some cases, the municipality chooses an area it would like to develop or that is unlikely to develop without assistance. Then the municipality designs improvements (ex: roads, sidewalks, sewer systems) to attract growth. In other cases, a developer or company identifies a site where they might locate. A developer may also negotiate with the municipality to use TIF to fund some improvements (ex: demolition, soil clean up, roads, water) the developer needs. Either way, an area facing development challenges receives help to grow. This creates a larger tax base for the municipality and the overlying taxing jurisdictions. Generally, when the tax base grows and spending is stable, tax rates go down, decreasing the property taxes for everyone.

## Important

One key basis for the use of TIF is the "but for" test. As part of all creation resolutions, a municipality must affirm that the development would not happen "but for" the use of TIF. The municipality must believe that without TIF the development would never happen. This test is important to ensure TIF assists development projects needing help, but that it is not a gift of tax dollars to private developers or property owners. Review [Considerations for the Municipality](#) for more information.

## 2. TIF law background

Wisconsin adopted TIF legislation in 1975 to eliminate blighted areas in urban neighborhoods. Interest rates were high, making government borrowing expensive and municipal investment in infrastructure and redevelopment unattractive. In addition, the cost was high for redeveloping blighted areas compared to developing open areas. This was due to demolition, alteration, remodeling or repairing existing buildings, removing environmental contamination from soil or groundwater, or other site work. Before TIF law was enacted, if a municipality wanted to expand its local tax base, the municipality alone would pay the cost but the overlying taxing jurisdictions would also benefit from the growth. The legislature saw this situation as unfair and TIF as a way to remedy the problem and encourage cooperation between local government.

Since TIF law was first adopted, changes have been made to expand the ways municipalities can use TIF and increase the involvement of the overlying taxing jurisdictions and local residents.

The chart below shows the law reference and creation year. Review [Summary of TIF Law Changes](#) for recent changes.

Eligible Municipality	WI Statute	Year Statute Created	TID Type
City or Village	66.1105	1975	Blight, Rehabilitation or Conservation, Industrial
City or Village	66.1105	2004	Mixed-use
City or Village	66.1105	2017	Environmental Remediation
Town	66.1105	2005	Any of the above as part of an annexation/cooperation agreement
City, Village or County	66.1106	1997 (ended 2017)	Environmental Remediation (now in 66.1105)
Town	60.85	2004	Agricultural, Forestry, Manufacturing, or Tourism
Town	60.23	2014	Same as created under 66.1105

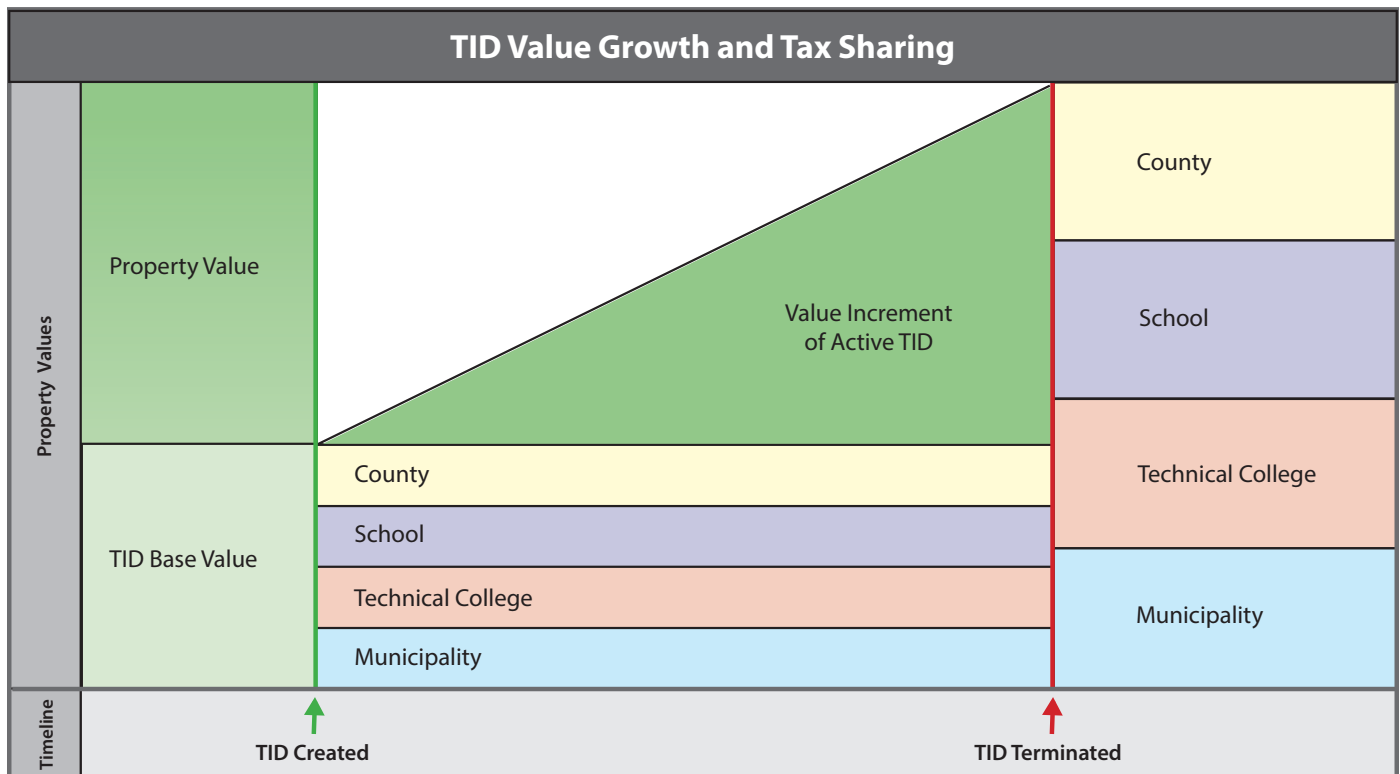
Review [Summary Statistics](#) for more details on the trends in numbers and types of TIDs.

## B. How TIF Works

TIF allows municipalities to promote tax base expansion. The municipality identifies an area for development; this is the TID. The municipality funds the necessary infrastructure and other projects to attract private development. Then as the property value increases, the municipality uses the taxes from that increase to pay the project costs. The municipality can only use TIF to fund infrastructure investment and other eligible projects that facilitate development.

When a municipality creates a TID, the municipality and other taxing entities agree to support their operation from the existing tax base within the TID. They agree the municipality will use the taxes on the value increase in the TID to pay for the investment.

### 1. Sharing the tax base



#### a. TID creation

When the municipality creates a TID, it establishes the base value of all the taxable property within the defined boundaries. The county, school, technical college and municipality in the chart above, make up the overlying taxing jurisdictions for the parcels in the base value. The overlying taxing jurisdictions share the tax revenue collected on this portion of the property value. After the TID is created, this tax revenue is allocated the same way as before the TID was created. In the chart, the county, school, technical college and municipality collect taxes on the property in the TID base. In areas with special taxing districts (ex: sanitary district or lake rehabilitation district), this district would appear in a row below the municipality.

Any new construction or investment in the TID property increases the value. The municipality collects the taxes on the growth in value of the property (the [Value increment](#)) as [Tax increment](#) revenue. The municipality can only use this revenue to pay for the improvements it made to the property in the TID according to the approved project plan.

Any agreement to use TIF depends on the "but for" concept. Review [But For Test](#) for more details.

## b. TID termination

The municipality must terminate the TID at the end of the maximum life, or when the tax increments collected exceed the approved project costs. At termination, the entire value of the property in the TID returns to the tax rolls of the overlying taxing jurisdictions. In the [TID Value Growth and Tax Sharing chart](#) on the previous page, the column on the right represents the increased property value subject to taxes. While the TID exists, tax revenue for each overlying jurisdiction is limited to the base value of the TID parcels. After terminating the TID, all the overlying taxing jurisdictions share the tax base; tax rates can be lowered to generate the same amount of revenue for the jurisdiction. Without the development encouraged by TIF, the base value would be the only value available for the jurisdictions to tax. Partnering to facilitate development helps all the overlying districts increase their tax base. If the TID property value does not increase as expected, the municipality may not receive enough tax increment to pay its expenditures. In this case, when the TID terminates, the municipality is responsible for the unpaid debts.

### Important

At termination, if the tax increment revenue exceeds the project costs, the municipality must return the surplus revenue to the overlying taxing jurisdictions in proportion to overlying taxing jurisdictions respective tax levy without TIF.

## 2. Tax increment calculation

The Tax Increment Worksheet ([Form PC-202](#)) calculates the amount of taxes for the TIF fund. The worksheet uses the apportionment of each overlying taxing jurisdiction to determine the share of each district's tax revenues that will be part of the municipality's tax increment.

### Example

This example shows how the county levy is apportioned and how the tax increment is calculated. The same process is used to determine the tax increment added to each of the other levies, including the municipality's that created the TID.

### Assumptions

- Entire county consists of four municipalities. Only Municipality "A" has a TIF district.
- 2018 equalized property value in the four municipalities, including the TID increment are:

Municipal Values								Total
A	\$400,000,000*	B	70,000,000	C	20,000,000	D	10,000,000	\$500,000,000
* Includes \$30,000,000 increment value								

- Municipality "A" has a Tax Incremental District (TID #1) with values of:
  - 2000 base value \$20,000,000
  - 2018 current value 50,000,000
  - Value increment 30,000,000
- The county needs \$1,500,000 from property taxes for its budget

**Note:** Values of the taxing entity and any municipality with one or more TIDs, are reduced by the value increment in any of the TIF districts. This is referred to as TID/OUT in the upcoming charts.

# 2019 Tax Incremental Financing (TIF) Manual

<b>Step 1</b>					
<b>Formula to determine each municipality's percent of the county's value:</b> Municipality Value ÷ County Value = % of County's Value					
Municipality	TID/Out Municipality Value	÷	TID/Out County Value	=	Percentage County Value
A	\$ 370,000,000	÷	\$ 470,000,000	=	.787234
B	70,000,000	÷	470,000,000	=	.148936
C	20,000,000	÷	470,000,000	=	.042553
D	10,000,000	÷	470,000,000	=	.021277
<b>Totals</b>	<b>\$ 470,000,000</b>		<b>n/a</b>		<b>1.000000</b>
<b>Step 2</b>					
<b>Formula to determine the county tax apportioned to each municipality:</b> Percentage County Value × County Levy = Apportioned Tax					
Municipality	Percentage County Value	×	County Levy	=	Apportioned Taxes
A	.787234	×	\$ 1,500,000	=	\$ 1,180,850
B	.148936	×	1,500,000	=	223,405
C	.042553	×	1,500,000	=	63,830
D	.021277	×	1,500,000	=	31,915
<b>Totals</b>	<b>1.000000</b>		<b>n/a</b>		<b>\$ 1,500,000</b>
<b>Step 3</b>					
<b>Formula to determine the county tax rate each municipality will collect, including the tax increment:</b> County Apportioned Tax ÷ (Municipality Equalized Value - Increment) = County Tax Rate per Municipality					
Municipality	Apportioned Municipality Taxes	÷	Municipality TID/Out Equalized Value	=	County Tax Rate for Each Municipality
A	\$ 1,180,850	÷	\$ 370,000,000	=	.0031915
B	223,405	÷	70,000,000	=	.0031915
C	63,830	÷	20,000,000	=	.0031915
D	31,915	÷	10,000,000	=	.0031915
<b>Totals</b>	<b>\$ 1,500,000</b>	÷	<b>\$ 470,000,000</b>		<b>n/a</b>
<b>Step 4</b>					
<b>Formula to determine the county tax rate for each municipality (referred to TID/IN below)</b> County Tax Rate × Total Equalized Value of all Municipal property = County Tax Collected (includes the tax increment for TID #1 in Municipality "A")					
Municipality	Tax Rate	×	Total Equalized Value Municipality TID/IN	=	County Taxes Collected
A	.0031915	×	\$ 400,000,000	=	\$ 1,276,600
B	.0031915	×	70,000,000	=	223,405
C	.0031915	×	20,000,000	=	63,830
D	.0031915	×	10,000,000	=	31,915
<b>Totals</b>	<b>n/a</b>		<b>\$ 500,000,000</b>		<b>\$ 1,595,750</b>
Total County Taxes Collected from Municipality "A"					\$ 1,276,600
Total County Apportioned Taxes for Municipality "A"					\$ 1,180,850
Tax Increment Retained by Municipality "A"					\$ 95,750



## Step 1- 4 Explanation

- County tax collected is apportioned to individual property owners in each municipality based on the assessed value of each parcel
- Amount of the tax apportioned by the county is \$1,500,000. Step 2 shows the amounts apportioned to each municipality.
- Tax increment of \$95,750 is the difference between the amount Municipality "A" collected by the county (\$1,276,600 shown in Step 4) and the amount apportioned for Municipality "A" (\$1,118,850 shown in Step 2)
- \$95,750 is the county portion of tax increment kept by Municipality "A" and deposited into the TID #1 fund for the TID's project costs

Step 5			Effect on the county tax rate if the TID in Municipality "A" terminates in 2018 and the county's levy and each municipality's values remain the same		
County Levy		County Equalized Value		Tax Rate	
\$ 1,500,000		\$ 500,000,000		.030000	
* Includes TID value increment in TID #1, Municipality "A"					

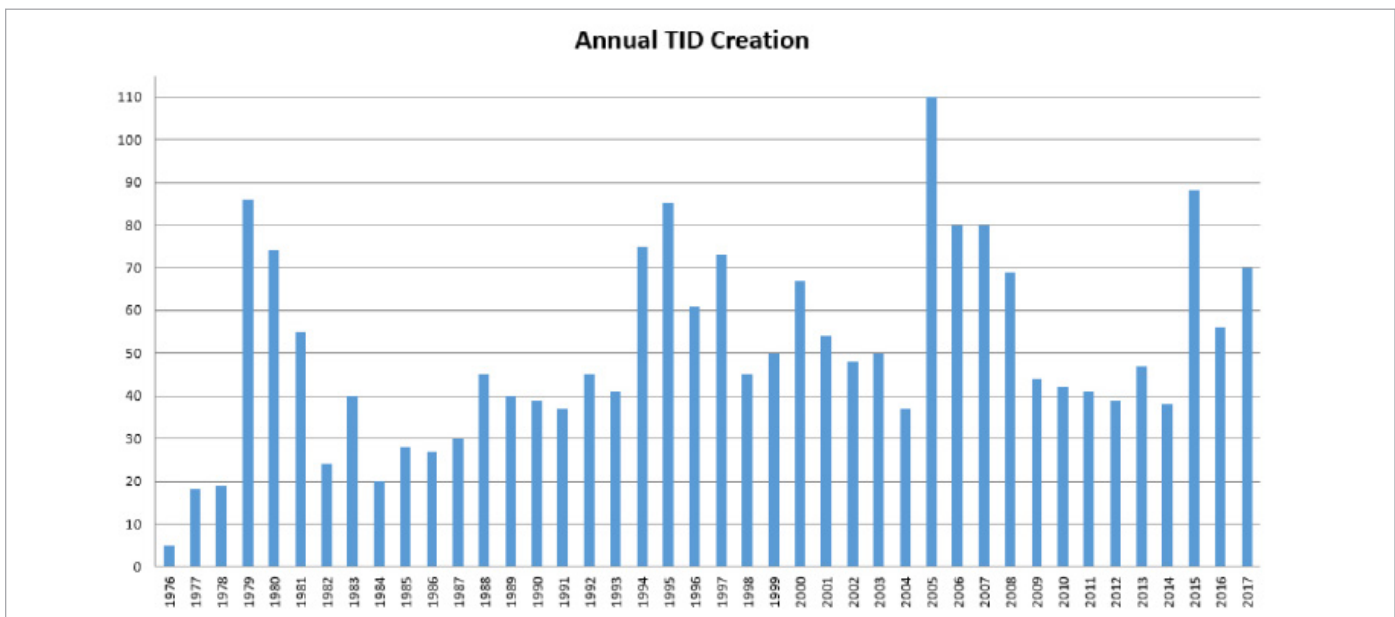
## Step 5 Explanation

- There is a difference in the tax rate of 19.15 cents per thousand dollars of equalized value without the TID in Municipality "A" (.0031915 shown in Step 3), compared to the rate with the TID (.0030000 shown in Step 5)
- This results in a \$19.15 tax difference for the county portion of taxes on a property valued at \$100,000

When a municipality has no TIDs, the municipal apportioned levy is the same as the county taxes collected. If there are no TIDs in a county, the county tax rate is lower for everyone. However, if there are TIDs, every taxpayer in the county pays a higher rate to generate the increment paid to the municipality operating the TID. All taxpayers in the county share this cost because they will all share the expanded tax base once the TID terminates.

## C. Summary Statistics

The number of TIDs continue to grow. The chart below shows TID creation by year. Overall, there has been steady growth since TIF was added to state law. There are a few noticeable spikes in creation activity due to law changes or economic trends.



## 1. Creation by TID type

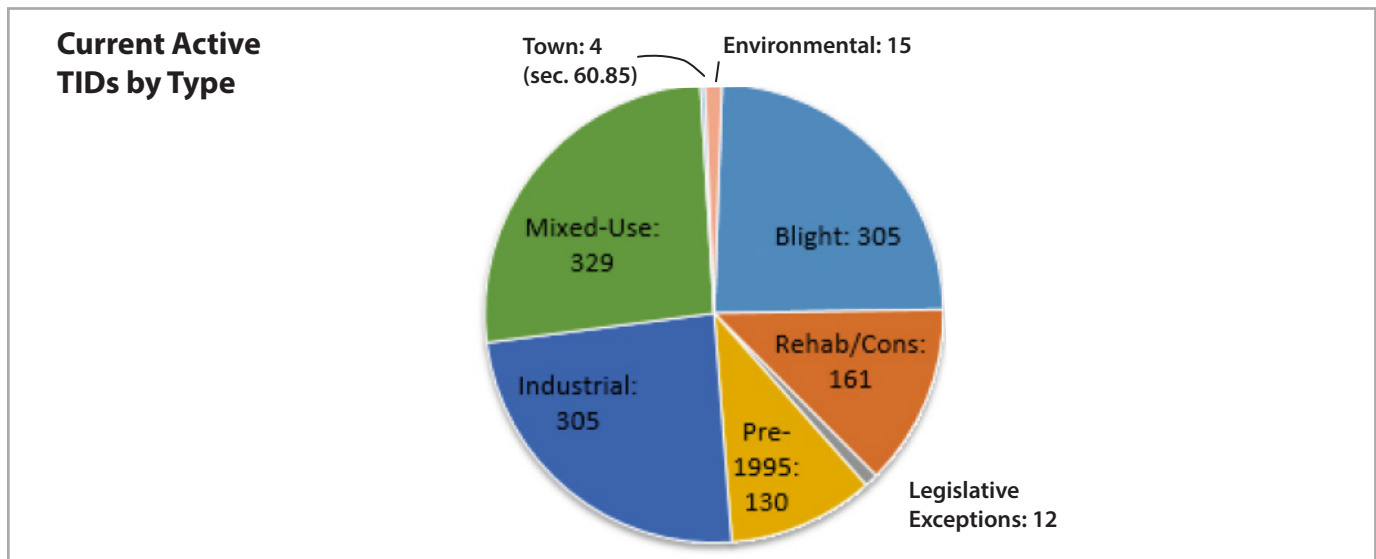
TIF law contains different rules based on TID type. The [TID Criteria Matrix](#) summarizes the rules governing the various TID types. Because the rules are based on TID type, it is useful to know the breakdown by type.

**In 2017, there were 70 new TIDs certified:**

- 18 Blight Elimination
- 15 Rehabilitation/Conservation
- 12 Industrial
- 25 Mixed Use

## 2. Active TIDs by type

Currently there are 1,261 active TIDs. The chart below shows a breakdown of the active TIDs by type.



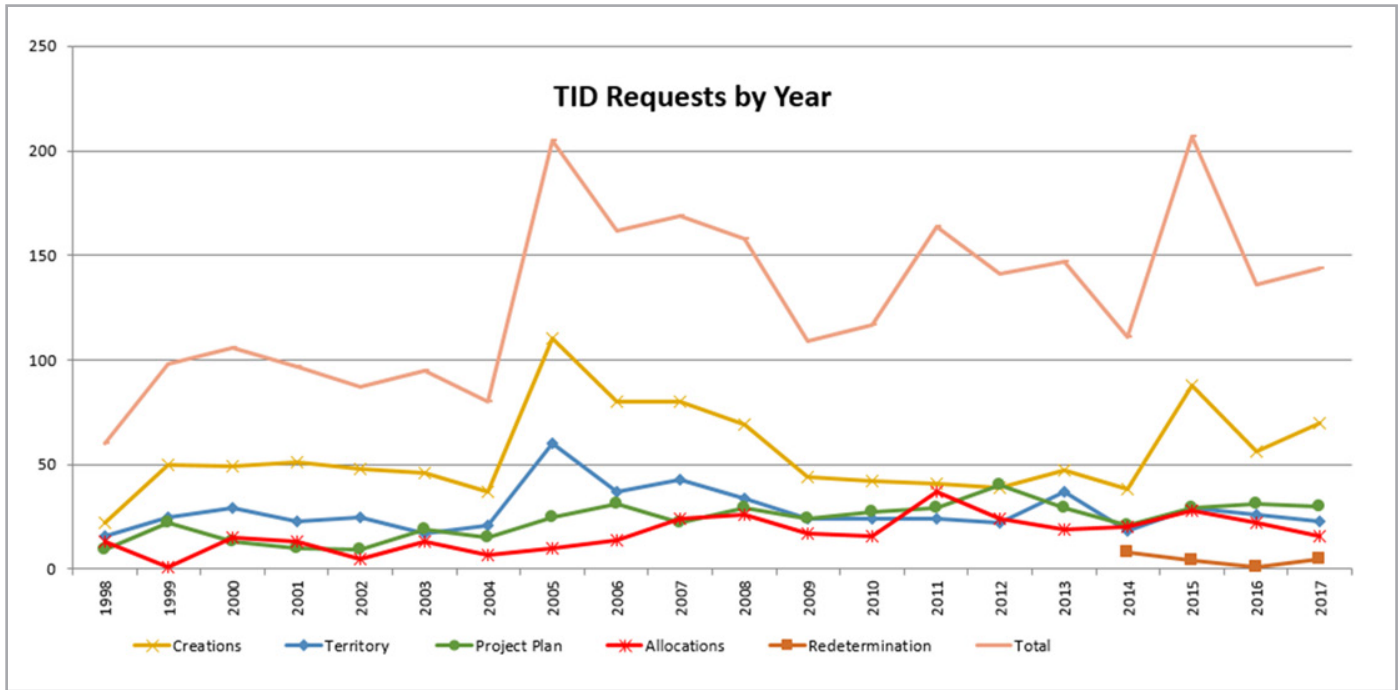
## 3. TID requests by year

TIF law allows municipalities to create TIDs and amend existing TIDs in different ways. In 2017, the Wisconsin Department of Revenue (DOR) approved these TID requests:

- 70 creations
- 23 territory amendments
- 30 project plan amendments
- 16 allocation amendments
- 5 base value redeterminations



The chart below shows the number of creations and amendment types requested by year.



Each municipality can add or subtract territory from an active TID up to four times during the life of the TID. Adding or subtracting parcels from an existing TID increases or decreases its base value.

Project plan amendments revise the planned development in the TID. An allocation amendment allows a municipality to transfer excess increment from one TID to another TID. There is no limit to the number of allocation or project plan amendments.

Base redetermination amendments allow a municipality to reduce the base value of a TID in a decrement situation. One redetermination amendment is allowed during a TID's life.

Review [TIF Amendments and Extensions](#) for more information on amendment types.

#### 4. TIF and property taxes in Wisconsin

The Legislative Fiscal Bureau publishes [Informational Paper 17](#) on TIF every two years. It contains background, municipal authority information and statistics on TIF use.



## D. Summary of TIF Law Changes

### 2017 Acts 70, 15, 58

#### Act 70

##### 1. Environmental Remediation (ER) Tax Incremental Districts (TID)

- Effective date: November 29, 2017
- ER TIDs created by a municipal resolution:
  - » Before November 29, 2017 – must follow [sec. 66.1106, Wis. Stats.](#), and are not affected by 2017 Act 70
  - » On or after November 29, 2017 – must follow [sec. 66.1105 Wis. Stats.](#)
- All ER TIDs must now be created under section 66.1105, Wis. Stats.

##### 2. Requirements/limits

- Maximum life is 27 years with the possibility of a three-year standard extension
- Before creating an ER TID under sec. 66.1105, Wis. Stats., the municipality must obtain a certified Wisconsin Department of Natural Resources (DNR) site investigation report and email it to DOR. To obtain this certified report, a municipality must provide DNR:
  - » Description of the environmental pollution in the proposed district
  - » Proposed remedial action plan
  - » Cost estimates for expected project costs
  - » Schedule for remediation (design, implementation, construction)
- At least 50 percent of the TID area has significant environmental pollution
- Project plan must specify either:
  - » All project costs will be paid within 90 percent of the TIDs remaining life
  - » Expenditures will only be made in the first half of the TID life; exception – expenditures for significant environmental pollution not identified in the certified site investigation report may continue for 22 years (5 years before the max life)
- May only allocate excess funds to other ER TIDs (created under 66.1105 or 66.1106, Wis. Stats.)
- A municipality may designate only one ER TID created under sec. 66.1105 Wis. Stats., as excluded from the 12 percent value limit. Once the excluded TID is designated, it cannot be changed.

##### 3. TID base value

- When an ER TID is created under sec 66.1105, Wis. Stats., DOR sets the base value to \$1
- If the ER TID is amended to add territory, the full value of the additional parcels as of January 1 of the amendment year is added to the existing \$1 base value

#### Act 15

##### 1. Termination and administrative fee deadline change

- Effective: January 1, 2018
- Changes the deadline for TID terminations from May 15 to April 15
  - » **Example 1:** If a termination resolution is adopted from May 16, 2017 to April 15, 2018, the termination year is 2018 and TID number is removed from the 2018 tax roll
  - » **Example 2:** If a termination resolution is adopted from April 16, 2018 to April 15, 2019, the termination year is 2019 and TID number is removed from 2019 tax roll
- Changes deadline for administrative fee (\$150 per active TID) from May 15 to April 15

## 2. TID Annual Report changes

- Effective: January 1, 2018 (for 2017 reporting year)
- Sets maximum penalty of \$6,000 for reports not filed timely – penalty for late filing remains \$100 per TID per day (applied beginning 60 days after report is past due)
- DOR reduces shared revenue payments for any unpaid penalty
- Removes the extra 30-day extension when an estimated report is filed

## 3. Base value for town TIDs created under 60.85

- Effective date retroactive to October 1, 2015
- Excludes town-owned property from the TID base value calculation
- Town TIDs are now consistent with municipal TIDs as changed in [2015 Act 255](#)

## 4. Notification to DOR of adopted amendments

- Effective: January 1, 2018
- Removes municipality's requirement to notify DOR of TID amendments during May 1 to May 21 each year
- Keeps requirement to notify DOR within 60 days after the amendment is adopted

## [Act 58](#)

### TIDs created in an electronics and information technology manufacturing (EITM) zone

- Effective: September 20, 2017
- Authorizes the creation of an electronics and information technology manufacturing zone and, in connection with that zone, creates special provisions for TIDs:
  - » Exception to 12 percent limit (no limit for these TIDs and not in the calculation for other municipal TIDs)
  - » 30-year life with expenditures allowed throughout life
  - » Mixed-use or industrial types
  - » Allows TID project costs throughout the county
  - » Allows police/fire costs (with some limitations)
- There are separate due dates/timeframes for these TIDs:
  - » Municipal resolution adopted January 1 to December 1 – if resolution states effective same year, then forms due to DOR December 31
  - » Municipal resolution adopted January 1 to December 1 – if resolution states effective the following year, then forms due to DOR November 30 of the following year
  - » Municipal resolution adopted December 2 to 31 – effective date is the following year with the forms due to DOR November 30 of the following year

## 2015 Acts 254, 255, 256, 257

### [Act 254](#)

#### 1. Three-year extension request

- Effective: March 3, 2016
- Allows municipality to amend the TID or request a three-year extension to a TID's life through a Joint Review Board (JRB) resolution if tax increments are impacted by 2013 Act 145 that increased state aid to technical colleges

#### 2. DOR determination

- Effective: March 3, 2016
- Requires DOR to indicate in a fiscal estimate if a bill will increase or decrease the increment collection for TIDs or if the effect is indeterminate

## **Act 255**

### **1. Removes vacant property restriction**

- Effective for TIDs created or project plans amended on or after October 1, 2015
- Removes restriction that vacant property may not comprise more than 25 percent of TID for creations after effective date

### **2. Excludes city-owned property**

- Effective for TIDs created or project plans amended on or after October 1, 2015
- Revises TID base value calculation to exclude exempt city-owned property

## **Act 256**

### **1. Increases JRB review time**

- Effective: March 3, 2016
- Changes JRB review period from 30 to 45 days to approve municipality's TID resolution

### **2. Changes levy limit calculation**

- Effective: March 3, 2016
- Changes calculation of levy limit exception – a municipality's Equalized Value for preceding year excludes the value of any TID increments for the year a TID terminates

### **3. Restricts industrial zoning**

- Effective: March 3, 2016
- TID industrial zoning requirements only apply to industrial TIDs

### **4. Changes public notice requirement on amendments**

- Effective: March 3, 2016
- Changes planning Commission Hearing Notice from Class 2 to Class 1 for TID amendments

### **5. Adds one more year to TIDs created between September 30 and May 15**

- Effective: March 3, 2016
- Adds one-year life and allocation extension for new TIDs when the municipality adopts the resolution between September 30 and May 15

## **Act 257**

### **1. Requires standing JRB**

- Effective October 1, 2015 for 60.85 Town TIDs and October 1, 2016 for all TIDs
- Must meet July 1 annually or as soon as the annual report is available to review
- Remains in existence the entire time TID exists with same taxing jurisdictions
- May disband following termination of all existing TIDs
- Applies to all TID types, including industry-specific town TID and Environmental Remediation TID

### **2. Repeals DOR's review of industry-specific town TIDs**

- Effective October 1, 2015 for 60.85 Town TIDs and October 1, 2016 for all TIDs
- Repeals DOR's review and determination whether the money expended, or debt incurred, by an industry-specific town TID complied with state law

### 3. Requires municipality to electronically submit annual TID Report

- Effective October 1, 2015 for 60.85 Town TIDs and October 1, 2016 for all TIDs
- Municipality must submit an electronic annual report for each existing TID to each overlying taxing jurisdiction. Annual reports are due to DOR starting July 1, 2016 for Town TIDs and July 1, 2017 for all other TIDs. The annual report must contain:
  - » Name assigned to the TID
  - » Developer named in agreement with municipality or receiving financial assistance
  - » Date municipality expects TID to terminate
  - » Tax increment amounts to be deposited into a special fund for the TID
  - » Contact person designated by municipality to respond to annual report
  - » Analysis of TID special fund:
    - Balance at beginning of the fiscal year
    - Amounts deposited by source, including amounts received from another TID
    - Special fund's expenditures by category of permissible project costs
    - Balance at end of fiscal year, including breakdown by source identifying portion of balance required for payment of anticipated project costs
    - Portion of ending balance not identified for payment of anticipated project costs designated as surplus

### 4. Requires DOR to develop annual report process

- Effective October 1, 2015 for 60.85 Town TIDs and October 1, 2016 for all TIDs
- Create format of annual reports in 2016
- Post reports no later than 45 days after receipt
- Determine whether to grant an extension if municipality provides evidence report is being completed
- Post on DOR website a list of extensions, period of extension and whether municipality timely filed annual report within extension
- Notify municipality annual report is past due if municipality does not timely file
- Charge municipality \$100 each day annual report is past due. Fees will be deposited in common school fund.

## 2013 Acts 183 and 193

### Act 183

#### TIDs with a decrement situation

- Effective: April 4, 2014
- Municipalities can request DOR redetermine the base value of a TID in a decrement situation
- TID's current year value – (review the [TID Statement of Changes Report](#)) must be at least 10 percent below the base value of the TID for two consecutive years (decrement)
- Municipality's resolution date stating a decrement exists determines the two consecutive years (ex: May 21, 2014 resolution date requires both the 2012 and 2013 TIDs to be 10 percent below the TID's current base value)
- TID must be created under state law ([sec. 66.1105, Wis. Stats.](#))
- One base value redetermination is allowed during the life of a TID

## Act 193

### **1. Creation of town TIDs under Sec. 66.1105, Wis. Stats.**

- Effective: April 6, 2014
- Expands the authority for certain towns to create TIDs
- When the town adopts a resolution, the following two criteria must be met:
  - » Prior year [Equalized Value](#) must be at least \$500 Million
  - » Prior year population must be at least 3,500 – use the [Population Estimates Summary](#)
- Sewer service is or will be provided before use or operation of any improvements

### **2. Allocation changes**

- Effective: April 6, 2014
- Allows a regular TID to allocate increments to an Environmental Remediation (ER) TID
- Allows an ER TID to allocate increments to a regular TID under state law ([sec. 66.1106\(7\)\(e\)](#) and [sec. 66.1105\(6\)\(f\), Wis. Stats.](#))

## **II. Tax Incremental District (TID) Details**

### **A. TID Creation**

Wisconsin's Tax Incremental Financing (TIF) law regulates the creation of TIDs. The law requires specific documentation and establishes public notice procedures a municipality must follow to create a new TID. The purpose of the requirements is to include the public in the decision-making process and to make it easy for the public to obtain information and provide input on the plans. Common language in project plans makes TID planning easier. Mandatory waiting periods ensure an opportunity for public participation. Most importantly, the municipality must create a Joint Review Board (JRB) to obtain approval from the overlying taxing jurisdictions. Having a JRB ensures all affected parties have a chance to understand and question the proposal.

The following steps explain the process for creating a TID under state law ([sec. 66.1105, Wis. Stats.](#)). The [TID Checklist](#) contains additional details.

**1. Prepare a proposed project plan describing the TID boundary** – what projects will be undertaken and how they will be paid ([sec. 66.1105\(4\)\(f\), Wis. Stats.](#))

- Review [Guidelines for Project Plans](#) for a list of all topics that must be covered in the Project Plan
- Projects impacting a TID, but not entirely in the TID's boundary, may have costs that are partly eligible (ex: if a water tower or sewer improvements serve the TID, part of the total cost can be paid with increment revenue. The municipality must determine how much of the cost is eligible and identify this cost in the plan.)
- Wetlands can be within the TID's designated boundaries, but under state law cannot be included in a TID. To remove wetlands from the TID, include an explanation on the map stating all wetlands in the area are excluded from the TID. The exclusion of the wetlands must not eliminate the contiguity of the TID.
- When preparing the project plan for a TID creation or territory amendment, DOR recommends involving the municipal and state manufacturing assessors, and the county real property lister

**2. Prepare a notice** – indicating when the municipality will hold the public hearing on the proposed project plan, boundaries and creation of the district ([sec. 66.1105\(4\)\(e\), Wis. Stats.](#))

- Notice must include a statement indicating the municipality will provide a copy of the proposed plan on request
- It must also state whether the proposed project plan includes cash grants made to owners, lessees, or developers of land within the TID
- It may also contain a brief description or a map of the proposed area included in the district

**3. If the TID is a blight or rehabilitation/conservation type, identify the affected properties** – notify the owners at least 15 days before the public hearing ([sec. 66.1105\(4\)\(c\), Wis. Stats.](#))

**4. Send a copy of the hearing notice, prior to publication** – by first class mail to overlying taxing jurisdictions ([sec. 66.1105\(4\)\(a\)](#) and [\(e\), Wis. Stats.](#))

- Request that the local governing entities designate a representative to serve on the Joint Review Board (JRB)
- **Overlying taxing jurisdictions** – include any governmental entity with the power to levy taxes on property located within the proposed TID boundaries (ex: county, school district(s), technical college district and any special taxing jurisdictions)
- **Special taxing jurisdictions** – are metro sewer districts, sanitary districts or lake rehabilitation/protection districts

**5. Publish two notices for the public hearing** – the first notice 14 days before the meeting and the second, seven days before, following Wis. Stats. Chapter 985 ([sec. 66.1105\(4\)\(e\)](#), [66.1105\(5\)\(d\)](#), Wis. Stats.)

**Notices must be published properly or DOR cannot certify the district:**

- Must include the place and date of the hearing
- Must state that the municipality will provide a copy of the project plan on request
- Must include a statement about cash grants, if it applies
- Should include the location of the proposed district

**6. Convene a JRB and publish a meeting notice** – at least five days before the first JRB meeting ([sec. 66.1105\(4m\)\(e\), Wis. Stats.](#))

- School district, county, technical college district and the municipality each appoints a member of the JRB
- JRB also includes a public member appointed by the other members
- **First meeting** – JRB must hold its first meeting within 14 days of the first hearing notice publication, but before the public hearing. The representatives select the chairperson and public member at the first meeting.
- JRB must continue while any TID exists in the municipality ([sec. 66.1105\(4m\)\(a\), Wis. Stats.](#))
- Review [Joint Review Board](#) for more information on JRB representatives

**7. Hold a public hearing** ([sec. 66.1105\(4\)\(a\)](#), [\(e\)](#) and [\(f\), Wis. Stats.](#))

- Planning Commission (or the municipality's Development or Redevelopment Authority) conducts a hearing on the proposed TID boundaries and project plan
- These topics can be discussed in the same meeting or separate meetings
- The meeting gives residents an opportunity to express their views

**8. Adopt a resolution** ([sec. 66.1105\(4\)\(b\), Wis. Stats.](#))

The meeting to adopt the resolution can immediately follow the public hearing. The Planning Commission adopts a resolution that covers these items:

- Boundaries of the TID
- Approval of the TID's project plan
- A statement that the TID promotes orderly development in the municipality
- After adoption, the Planning Commission submits its approval to the local legislative body

## 9. Approve the plan; adopt a municipal resolution (sec. [66.1105 \(4\)\(g\)](#), [\(gm\)](#), [\(i\)](#) and [60.85\(3\)\(e\)](#), Wis. Stats.)

- Municipal legislative body approves the project plan and adopts the creation resolution at least 15 days after the public hearing (30 days for a TID created under [60.85, Wis. Stats.](#))
- Boundaries adopted by the municipal legislative body do not have to match those adopted by the Planning Commission
- Project plan must be adopted before (or when) the TID is created
- Review the [Resolution Checklist](#) for details on required documentation in the municipal resolution

### Note:

- After the municipality adopts the project plan and creates the district, it forwards the documents to the JRB
- In 2015, Act 256 (effective March 3, 2016) added one year of life for new TIDs when the municipality adopts the project plan between September 30 and May 15

### TID's official creation date is the date the municipality adopts the creation resolution. Creation date determines:

- Start date for the TID maximum life and when expenditures (other than planning) begin and end
- Valuation date and when the application materials are due to DOR

## 10. Approve the proposal; adopt a JRB resolution (sec. [66.1105\(4m\)\(b\)](#) and [\(c\)](#), Wis. Stats.)

- JRB reviews the public record, planning documents and the municipal resolution
- JRB must approve or deny the TID within 45 days after receiving the creation resolution. The JRB may hold additional public hearings.
- JRB's decision to approve or deny the proposal must be based on three criteria – whether the:
  - » Expected development would occur without using TIF
  - » Economic benefits are sufficient to compensate for the cost of improvements
  - » Benefits outweigh the anticipated tax increments to be paid by property owners in overlying districts
- JRB resolution must reflect its findings on these criteria. Review [Joint Review Board](#) for more information.
- Majority of the JRB must approve the TID or it cannot be created
  - » The JRB must submit its decision to the municipality within seven days of making the decision
  - » If the JRB rejects the proposal, the JRB must issue a written explanation to the municipality

## 11. Notify DOR – municipal clerk should notify DOR of the creation resolution within 60 days of JRB approval

## 12. Submit the application (sec. [66.1105\(5\)\(b\)](#) and [\(c\)](#), Wis. Stats.)

After the municipality and the JRB approve the TID, the municipal clerk must submit an application to DOR for base value certification.

### Application includes these documents described in the [TID Checklist](#):

- Legal documents
- Map and boundary description
- Map must contain parcel identification numbers (or tax key numbers)
  - » Use the same set of numbers on the map and value forms
  - » Parcels listed on the valuation forms and map should reflect parcels on the assessment roll
- Project plan
- Value forms

The municipal resolution adoption date determines the creation year. For more details on relevant creation dates, review the [TID Creation Timeframes table](#).

## 13. Pay TID creation fee of \$1,000 – through [My Tax Account](#) (sec. [66.1105\(5\)\(a\)](#), Wis. Stats.)



## 14. DOR reviews and certifies ([sec. 66.1105\(5\)\(b\), Wis. Stats.](#))

DOR verifies the above steps were followed before certifying the TID base value. DOR determines the full value of the taxable property within the district and sends a certification letter to the municipal clerk with the approved base value.

## 15. Identify the parcels on the assessment roll ([sec. 66.1105\(5\)\(f\), Wis. Stats.](#))

The municipal assessor must identify parcels within a TID on the assessment roll. The clerk makes a similar notation in the tax roll. Review the [TID Creation Timeframes](#) table to determine the year the TID is added to the tax roll.

## B. TID Amendments and Extensions

The process for adopting a TID amendment is similar to the process for creating the TID; however, there are two important differences. ([sec. 66.1105\(4\)\(h\)\(1\), Wis. Stats.](#))

### Differences:

- Amendments require one notice (creations require two notices) prior to the public hearing
- There is no waiting period prior to the municipal resolution (creations require 14-30 days). The municipality may adopt the resolution any time after receiving the resolution from the planning commission.

Review the [TID Checklist](#) for details on the steps and documents required for each amendment type. For most amendments, a municipality must create an updated project plan detailing the changes.

### Amendment notice must:

- Include – amendment description, and time and date of the hearing
- Inform the public:
  - » Of the purpose and cost of the amendment
  - » That copies of the project plan are available on request

## 1. TID amendment types

After a TID is created, the municipality may amend the TID in several ways.

### Amendment types:

#### a. Territory amendment ([sec. 66.1105\(4\)\(h\)\(2\), Wis. Stats.](#))

A municipality may revise the boundaries of a TID up to four times during the TID's life. If a territory addition and a territory subtraction amendment are completed concurrently, they are considered one amendment.

#### 1) Adding parcels

Parcels can only be added if the following are true:

- Additional territory is contiguous to the TID
- Municipality remains below the equalized value limit:
  - » 12 percent for cities or villages
  - » 7 percent or 5 percent for towns
  - » For more information review [TIF - Value Limit Common Questions](#)
- Newly added territory is served by the improvements in the project plan

Review the [Territory Amendment \(addition of parcels\)](#) web page for required forms, publications, and more detailed information.

## 2) Subtracting parcels

The process for subtracting territory parallels the process for adding territory. The TID boundaries must remain contiguous after the subtraction. Municipalities exceeding the equalized value limit can subtract parcels.

Review the [Territory Amendment \(subtracting parcels\)](#) web page for required forms, publications, and more detailed information.

- **Addition/subtraction** – a municipality can add and subtract territory at the same time. The requirements are the same as listed above. A municipality may not subtract parcels and add them back into the TID in the same year. When the amendment adds and subtracts parcels at the same time from the TID, the legal requirement documents, project plan, and map can be the same; however, a municipality must complete separate value forms for each amendment. If a territory addition and subtraction amendment are completed concurrently, they are considered one amendment toward the limit of four.
- **Maps** – on the maps submitted as part of a territory amendment, only identify parcels that are part of the amendment; however, still show the entire TID boundary. In the legal description, describe the full TID boundary updated for the amended area.
- **Forms** – when filling out the [TID Base Workbook](#) for a Territory Addition Amendment, only list the parcels that are in the amended area. For a Territory Subtraction Amendment, use the [TID Territory Subtraction Workbook](#) are different. Enter the parcel numbers and values used on the original creation or addition forms. DOR enters the original ratios based on when the parcels were added to the TID.

### b. Project plan amendment

A project plan amendment may revise any of the topics covered in the original project plan. The TID project plan must cover the topics outlined in the Common Language Guidelines for TIF Project Plans. Amended plans cannot remove any of these topics but can modify them. The most common plan amendments change projects and their costs. After work in the TID begins, additional projects may be needed or desirable. In addition, the growth in value of the TID may generate a larger tax increment than expected, providing the revenue to finance additional projects. If project costs are added to the plan, update the financial analysis. The increment must still be able to pay for the improvements within the life of the district because the project plan amendment does not alter the expenditure period or the TID maximum life.

There is no limit on the number of project plan amendments during a TID's life. Review the [Project Plan and/or Allocation Amendments](#) web page for required forms, publications, and more detailed information.

### c. Allocation amendment ([sec. 66.1105\(6\)\(d\), Wis. Stats.](#))

An allocation amendment allows the municipality to redirect revenue from one TID (called the "Donor TID") to another TID (called the "Recipient TID"). This may be advantageous when one TID is generating revenues above what was forecasted and another is performing below expectations. Before an allocation amendment is adopted, the JRB members and the public must understand that an allocation amendment will direct more revenue than planned to the municipality's TIF fund. This occurs because transferring increment revenue from one TID to another delays the time in which the donor TID can fully pay its costs and be terminated. This delays the return of the tax base to the overlying districts.

#### Allocation requires:

- Donor and Recipient TIDs have the same overlying taxing jurisdictions
- Donor TID demonstrates the current increment is sufficient to pay off all costs and provides enough surplus revenue to pay some of the costs for the recipient TID

Allocations are only allowed in specific scenarios, which are outlined in the [Allocation Amendment Fact Sheet](#). Review the [Project Plan and/or Allocation Amendments](#) web page for required forms, publications, and more detailed information.

**Note:** The resolutions adopted by the planning commission and the legislative body must state specifically from which TID the increments are coming and to which TID the surplus is going.

## d. Base value redetermination amendment

A municipality can request a base value redetermination for a TID in a decrement situation if:

- TID's current year value (review the [TID Statement of Changes Report](#)) is at least 10 percent below the base value of the TID for two consecutive years (decrement) (sec. [66.1105\(5\)\(h\)](#) and [\(i\)](#), Wis. Stats.)
- Municipality's resolution date for the redetermination amendment determines the two consecutive years (ex: a resolution adopted May 21, 2019 must show that both the 2018 and 2017 values are 10 percent below the TID's base value)
- TID was created under state law [sec. 66.1105, Wis. Stats.](#)
- Only one redetermination amendment is allowed during the TID's life

Complete and submit the [TID Base Redetermination Worksheet](#). Review the [Base Value Redetermination](#) web page for required forms, publications, and more detailed information.

## e. Distressed/severely distressed amendment ([sec. 66.1105\(4e\), Wis. Stats.](#))

From 2008 through 2015, a municipality could extend the life of a TID experiencing financial difficulty by adopting a distressed/severely distressed designation. This allowed the TID additional time to pay off obligations. The ability to use this designation ended on September 30, 2015. For more information, review the [TIF Distressed/Severely Distressed](#) web page.

## f. Amendment fees and due dates ([sec. 66.1105\(5\)\(a\)](#) and [\(b\)](#), Wis. Stats.)

Amendment fees are payable by using [My Tax Account](#).

Amendment Type	Fee	Application due to DOR
Territory – Add parcels	\$1,000	October 31
Territory – Subtract parcels	\$1,000	October 31
Territory – Add and Subtract	\$2,000	October 31
Project plan	0	December 31
Allocation	0	December 31
Base value redetermination	\$1,000	October 31

## 2. TID extension types

After a TID is created, the municipality may extend the life in several ways.

### Extension types:

#### a. Standard extension ([sec. 66.1105\(7\)\(am\)\(1\)](#), [\(2\)](#), and [\(3\)](#), Wis. Stats.)

A municipality may extend a TID's maximum life through a request to the JRB. If the municipality provides an independent audit showing the TID cannot repay project costs within the maximum life, the JRB must approve the extension. Without an independent audit, it is the sole discretion of the JRB whether to grant the extension.

The length of the standard extension varies based on the TID type and creation date. Not all TID types are eligible for the standard extension. For details on extension eligibility by TID type, review the row titled "Standard extension allowed" in the [TID Criteria Matrix](#). The municipality must submit a copy of the JRB resolution to DOR. DOR will then extend the maximum life.

## **b. Affordable housing extension** ([sec. 66.1105\(6\)\(g\), Wis. Stats.](#))

A municipality may extend a TID's life that paid off all its project costs, by one year if the municipality adopts a resolution that:

- Extends the TID's life for a specified number of months (up to 12)
- Specifies how the municipality intends to improve housing stock

The municipality must submit a copy of the municipal resolution to DOR. DOR will then authorize the tax increment allocation for one additional year. The municipality must use at least 75 percent of the increment received to benefit affordable housing. The municipality must also use the remaining portion to improve housing.

## **c. Technical college extension** ([sec. 66.1105\(7\)\(am\)\(4\), Wis. Stats.](#))

A municipality may extend a TID's maximum life by three years if [2013 Wisconsin Act 145](#) negatively affected the annual and total increment amounts. This act increased state aid to technical colleges. This extension only applies to TIDs with a municipal resolution adopted by September 30, 2014. If the municipality provides an independent audit showing the TID cannot repay project costs within its maximum life, the JRB must approve the extension. Without an independent audit, it is the sole discretion of the JRB whether to grant the extension.

The municipality must email a copy of the JRB resolution to [tif@wisconsin.gov](mailto:tif@wisconsin.gov). DOR will review the request and approve the extension to the maximum life.

## **C. TID Maintenance**

After a TID is created, municipal officials must maintain the TID in good standing with the Wisconsin Department of Revenue (DOR) and the overlying taxation districts that partnered to create the TID.

### **1. Annual filings with DOR**

#### **a. Municipal Assessment Report (MAR)** ([sec. 66.1105\(6\)\(a\), Wis. Stats.](#))

On the MAR, the assessor identifies the current assessed value for each TID in the municipality. Assessors must submit the [MAR](#) electronically by the second Monday in June. If final data is not available, the assessor must submit a best estimate. If the assessor does not file the MAR timely, DOR cannot calculate the value increment and the municipality cannot collect the associated tax increment funds.

#### **b. Administrative fee** ([sec. 66.1105\(6\)\(ae\), Wis. Stats.](#))

Each municipality must pay an administrative fee of \$150 for each active TID by April 15. The fee must be paid through [My Tax Account](#). During the first week of March, DOR sends each municipality a notification letter through My Tax Account listing the active TIDs and the total amount due from the municipality. If the municipality does not pay the fee, DOR will not certify a value increment for that year.

Effective January 1, 2018, the Administrative fee deadline changed from May 15 to April 15 with the [2017 Act 15](#).

#### **c. Annual reports** ([sec. 66.1105\(6m\)\(c\), Wis. Stats.](#))

The municipality must complete an annual report for each TID describing the expenditures and revenues. By July 1 each year, the municipality must file this report with each overlying tax district and DOR.

The municipality must file the annual report electronically. The reports are posted on DOR's website. By law, DOR must charge a penalty on any report that is not filed within 60 days after the July 1 due date. The penalty is \$100 per TID per day overdue. The JRB must meet annually by July 1 (or when the report is available) to review the annual report. ([sec. 66.1105\(4m\)\(f\), Wis. Stats.](#))

**d. Periodic audits** (sec. [66.1105\(6m\)\(a\)](#) and [\(b\)](#), Wis. Stats.)

At least three Certified Public Accountant (CPA) Audits are required for each TID. The CPA must determine if the TID financial transactions are legal and comply with the project plan and TIF law. Each audit is due within 12 months:

- **When the first 30 percent of the project costs are spent** – this audit may occur at different times for different TIDs depending on when project costs occur (ex: for a TID with \$1 million in total project costs, conduct the audit after the year spending reaches \$300,000, regardless of how much was spent that year or the age of the TID.) Address the revenues and expenditures from the TID creation through the year of the audit. If the municipality adds projects as part of an approved project plan amendment after this audit is completed, repeat the audit. Keep a copy of this audit for your TID records.
- **At the end of the expenditure period** – address the revenues and expenditures from the TID creation through the year of the audit. The TID account may be in debt at this point because the tax increment revenue collected is less than the total expenditures for the TID. Terminate the TID if increment revenue is equal or greater than the total project costs. Keep a copy of this audit for your TID records.
- **After the TID is terminated** – this audit accounts for all revenue and expenditures during the entire life of the TID, including any excess increment returned to the overlying taxing jurisdictions. Review "TIF Termination" below for more information.

The cost of performing these audits is an eligible TIF project cost. Including the cost as part of the original project plan is advisable.

## D. TID Termination

The termination of a TID must be completed according to deadlines established by law.

### Follow these steps to terminate a TID:

#### Step 1: Termination resolution

A TID is terminated through a resolution of the local legislative body. A TID must terminate when either of these occur:

- Reached its maximum life
- Received tax increment payments that equal the project costs

The municipality may also choose to terminate the TID for some other reason.

A sample termination resolution is available on the [Municipal TIF Termination](#) web page.

TID Maximum Life	
TID Type	Max Life
Any type created before October 1995	27 years
Blight/Rehabilitation after October 1995	27 years*
Industrial after October 1995; before October 2004	23 years*
Industrial of Mixed-use after October 2004	20 years*
Environmental Remediation before November 2017	23 years
Environmental Remediation after November 2017	27 years*
*Maximum life may be extended. Review <a href="#">TIF Amendments and Extensions</a> for details.	

## **Step 2: Email DOR** ([sec. 66.1105\(8\)\(a\), Wis. Stats.](#))

Within 60 days of adopting the termination resolution, the municipal clerk must email DOR a copy of the termination resolution and a completed Final Accounting Submission Date Agreement ([PE-223](#)) to [tif@wisconsin.gov](mailto:tif@wisconsin.gov). DOR recommends the municipality also notify their municipal assessor, county property lister, and overlying taxing jurisdictions.

If the municipal resolution is adopted by April 15 of any year, the effective date of termination is the current year. If the resolution is adopted between April 16 and December 31, the effective date is the following year. Review [TID Termination Timeframes](#) table for additional information. For more details on the termination effective date, review [sec. 66.1105\(8\)\(b\), Wis. Stats.](#)

**Note:** Effective January 1, 2018, the TID termination deadline changed from May 15 to April 15 with [2017 Act 15](#).

## **Step 3: Complete the TID Final Audit**

The municipality must have a Certified Public Accountant (CPA) complete the final audit for all revenue and expenditures during the TID life.

## **Step 4: File the online TID Final Accounting Report (PE-110)**

The Final TID Accounting Report ([PE-110](#)) is due to DOR based on the date agreed upon between the municipality and DOR on the Final Accounting Submission Date Agreement ([PE-223](#)).

Before the termination is final, the municipality must electronically file (e-file) the Final TID Accounting Report (PE-110) with DOR. This report includes total expenditures and revenue during the TID life based on the final audit. For more details on termination reporting, review ([sec. 66.1105\(8\)\(c\), Wis. Stats.](#)).

If a municipality does not submit this report within the specified timeframe, it will delay the certification of future TIDs.

### **Final Accounting Report shows 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 after the surplus is distributed. If the balance is not zero, the municipality must pay the remaining debt.

## **III. Joint Review Board (JRB)**

### **A. JRB Purpose**

State law provides for a JRB and 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 Tax Incremental District (TID). If the JRB approves the TID, it viewed or heard convincing evidence of the need for Tax Incremental Financing (TIF) assistance to make the development a reality. The JRB jurisdictions agree to sacrifice some amount of tax revenue for many 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. When creating a multijurisdictional TID, each participating municipality may appoint one representative.

## 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, or the village board president, or town board chairperson or their designee with preference to the person who administers the economic development programs or the municipal treasurer or another person with knowledge of local government finances
- **Public member** – this member is chosen by a majority of the other members at the JRB's first meeting. There is no legal guidance regarding who is eligible for this seat; preference should be given to residents with financial or economic development knowledge. A public member can be appointed as chairperson.
- **JRB chairperson** – the chair of the JRB is chosen by a vote of the other members at the first JRB meeting

If more than one school, union high school, elementary school, technical college or county district have 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 percent of the area in the TID, but only has 40 percent of the TID value. School District "B" serves 25 percent of the area in the TID but has 60 percent 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 where the additional territory is located chooses the JRB member. After the territory amendment is completed, any future amendments require a new calculation to determine which county has the majority of the land value and voting representation on the JRB.

## C. JRB Procedures

### 1. Based on review, the JRB can approve or deny a TID creation or amendment

- When creating a TID (before the public hearing notice is published), the municipality must send the overlying taxing districts a letter with a copy of the notice (by first class mail) to request a representative to serve on the JRB for that TID
- Within 14 days after the public hearing notice is published and before the public hearing for a TID creation, 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. They may also review details of the new TID.
- After receiving the municipal resolution, the JRB must meet again to vote on the resolution. The JRB should adopt its own resolution to document its decision based on the decision criteria in state law.
- 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 is responsible for keeping these TID records.
- The municipality must publish a notice for any JRB meeting at least five days before the meeting, under state law (ch. 985, [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](#).

## 2. After receiving the municipal resolution, JRB must act to approve or deny 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.](#)

## 3. After the JRB resolution is adopted

- 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 ([sec. 66.1105\(4\)\(i\)](#), [sec. 60.85\(3\)\(k\)](#), and [sec. 66.1106\(3\)\(b\)](#), Wis. Stats.). JRB members may request missing or additional information.

### 1. Required information

- 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 districts
- Benefits the taxpayers will receive to compensate for their share of the projected tax increments

### 2. Additional information the JRB may request

- **Detailed list of project costs, resolutions and public records** – copies of the planning commission and municipal resolutions, project plan, public hearing minutes and notices, signed development agreement
- **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\(18\)\(b\)2, Wis. Stats.](#)
- **Economic feasibility study** – detailing the projected tax increments and estimates of increased property values

## 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 ([sec. 66.1105\(4m\)\(c\)](#), [sec. 66.1106\(3\)\(c\)](#), [sec. 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" test)
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 districts

Each criterion is important to ensure the TIF project is beneficial for all taxpayers in the overlying districts. Many consider the first criterion, the "but for" test, 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 Test](#) 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 that DOR review the facts contained in the documents listed in [Additional information the JRB may request](#).

### 1. To request a DOR review

- Majority of the JRB members must support the request
- Written request must be submitted to DOR and must specify which fact or item the members believe is inaccurate or incomplete
- 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
- Within 10 working days of receiving a review request, DOR will review the issues raised and send a written response to the JRB
- Review [JRB Request for DOR Review](#) for more information

### 2. What if the information does not comply or is inaccurate?

- 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 votes to approve or reject under 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 votes to approve or reject as otherwise specified in TIF law. The JRB must submit its decision to the municipality within 10 working days of receiving DOR's written response.

## G. After JRB approves a TID

- Municipality sends DOR a request to approve certification and includes all the required documents. If DOR determines procedures were followed, DOR will email the municipality a certification letter. Review the [Creation Timeframes](#) table for more information.
- 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 ([sec. 66.1105\(4m\)\(f\), Wis. Stats.](#))

## IV. Wisconsin Department of Revenue Responsibilities

### A. Statutory Responsibilities

The Wisconsin Department of Revenue (DOR) has different responsibilities assigned by Tax Incremental Financing (TIF) law in administering Tax Incremental Districts (TIDs). State law identifies these duties, which include:

#### 1. Determine property values

One of DOR's primary responsibilities is establishing the Equalized Value of property throughout the state. Equalized Value is an estimate of the total value subject to property tax in a district. The Equalized Value is calculated independently of the value estimate by the local assessor. DOR uses Equalized Values to calculate a TID's base value when it is created and to adjust the base value due to a territory addition or subtraction. For more details on determining a Tax Incremental Base, review [sec. 66.1105\(2\)\(j\), Wis. Stats.](#) For more information on establishing a Value Increment, review [sec. 66.1105\(2\)\(m\).](#)

When certifying a new or amended TID, the law requires DOR to use the most recent Equalized Values as of the creation or amendment year. When subtracting territory, DOR uses the Equalized Values from the year the property was added to the TID. DOR also uses Equalized Values to establish the value increment in each subsequent year.

Municipalities are limited in the use of TIF based on the Equalized Value. The Equalized Value of taxable property of the new or amended district, plus the value increment of all existing districts cannot exceed 12 percent of the total Equalized Value of taxable property within the municipality. This is called the "12 percent value limit." The local legislative body must use the most recently reported Equalized Value to calculate the percentage when creating or adding to a district. DOR posts the [TIF Value Limitation Report](#) yearly, showing the calculation for each municipality with a TID. For more details on the 12 percent value limit, review [sec. 66.1105\(4\)\(gm\)4c, Wis. Stats.](#)

Based on the documents provided by the municipality, DOR determines the total Equalized Value of the taxable property in the TID. This valuation sets the district's tax incremental base. DOR provides the municipal clerk the certification letter with the value. For a territory amendment, DOR revises the base value according to the value of the territory added or subtracted. For more details on TID base certification, review [sec. 66.1105\(5\)\(b\), Wis. Stats.](#)

#### 2. Collect fees

DOR collects a \$1,000 fee from municipalities for each resolution adopted to create or amend the TID's boundaries. For a territory amendment that both adds and subtracts property, the base value is recalculated twice; and DOR collects a \$2,000 fee. For more information on TID fees, review [sec. 66.1105\(5\)\(a\), Wis. Stats.](#)

#### 3. Approve TID actions

DOR reviews all TID creation and amendment documents to confirm proper notice was given and procedures were followed. This includes publishing notices, holding a public hearing, designating boundaries and adopting municipal and Joint Review Board (JRB) resolutions. DOR may not certify the base value of a newly proposed TID if a municipality does not email DOR all required documents by the deadline. DOR cannot certify the base until it

confirms the municipality is within the 12 percent value limit. Review the [TID Checklist](#) and [sec. 66.1105\(4\), Wis. Stats.](#) for more information. **Note:** DOR does not review the facts supporting any project plan adopted.

## 4. Review requests for substantial compliance

Determine on case-by-case basis, whether a municipality met substantial compliance when creating or amending a TID. Review [Substantial Compliance](#) for more information.

## 5. Review requests by the JRB

DOR may review specific documents or facts if requested by the JRB. Review [JRB Request for DOR Review](#) for more information.

## 6. Calculate annual increment

After the TID number is added to the parcels on the tax roll, DOR authorizes the allocation of tax increments each year. By April 15 each year, the clerk must pay the certification administrative fee (\$150 per TID). When the municipality pays this fee, the TID is considered active and DOR calculates the increment for that year. The assessor must also electronically file the Municipal Assessment Report ([MAR](#)) before the second Monday in June. If the MAR is not filed timely, DOR will use the previous year's non-manufacturing certified TID Equalized Value. As a result, any value change will not be reflected that year and the value increment will not change.

## 7. Track notification from municipality

TIF law requires the municipality to notify DOR about TID amendments and terminations within 60 days of the adoption of the municipal resolution. For more information on amendment notification, review [sec. 66.1105\(5\)\(cm\), Wis. Stats.](#) For more information on termination notification, review [sec. 66.1105\(8\)\(a\), Wis. Stats.](#) Review [TIF Termination](#) and the [Termination web page](#) for more information on the termination process.

## 8. Generate reports

Each year DOR must provide the Equalized Value of property in the TID to the officials for the overlying taxing jurisdictions. DOR posts this notice annually (by September 1) on the [Certification Report web page](#). DOR also generates other reports to share TID information, including:

- [TID Statement of Changes](#)
- [Apportionment of County Levy](#)
- [TIF Reports](#) – active TIDs, created TIDs, terminated TIDs, and amended TIDs

## 9. Create TIF Manual and forms

Under state law, DOR may create and update a TIF Manual to explain the TIF rules and processes. TIF staff revises the documents and forms as new legislation is enacted. For more information on the TIF Manual, review [sec. 73.03\(57\), Wis. Stats.](#)

## 10. Provide training and advice

In addition to providing formal documents and publications, TIF staff is available to answer any questions; email questions to [tif@wisconsin.gov](mailto:tif@wisconsin.gov). Also, use this email address to attach TID documents for new creations and amendments. TIF staff also provides information at workshops and conferences. Consultants and professional associations also offer training workshops for TIF users.

DOR uses email to communicate TIF updates, announce updated reports and resources, and to provide reminders on upcoming deadlines. The TID email list currently has over 2,000 subscribers; subscription is free and voluntary. [Sign up](#) on DOR's website by selecting the TID/TIF list and entering your email address. The addresses are only used by DOR to send these emails. Users may unsubscribe at any time by following the instructions in each message.

## B. JRB Request for DOR Review

Before the Joint Review Board (JRB) approves a TID creation or amendment, a majority of the JRB members can request that the Wisconsin Department of Revenue (DOR) review details from documents the JRB received from the local legislative body (city council, village board or town board). There are limited items subject to this review, and a strict timeline for making decisions. DOR's review can provide the JRB with an objective assessment of the facts and documents presented by municipal officials.

### Review steps and timeline

After the local legislative body adopts the TID creation or amendment resolution, it forwards the resolution to the JRB for consideration. Once received, the JRB must approve or deny the resolution within 45 days. During its deliberations, a majority of members may request a formal DOR Review under state law ([sec. 66.1105\(4m\)\(b\)4, Wis. Stats.](#)).

**1. To begin the review process** – the JRB must submit a formal request to DOR before the deadline for JRB action (45 days after receipt of resolution). The request must be in writing and include the following:

- Municipality's name and TID number
- List of JRB members, meeting date, and a record of the vote requesting DOR review (majority of the members must support the request)
- Copy of the documents subject to the review
- Specifics for DOR to review:
  - » Items for completeness
  - » Facts for accuracy

**2. Because of the tight deadlines imposed by law** – JRB must provide all documentation with the request that impacts the proposal. This ensures DOR has all documents to complete the review. The submission should include any information that provides insight into the accuracy of the reviewed document.

**3. Within 10 working days after receiving the request** – DOR will investigate the issues raised and will send the JRB a written response

- **If DOR does not identify any inaccuracies during the review** – DOR will send its response to the JRB. The JRB then has 10 days to submit its decision (approving or denying the TID) to the local legislative body. The JRB must make a decision to approve or deny based on the same criteria as if no review was requested.
- **If DOR finds a factual inaccuracy or the proposal does not comply with the statutes** – DOR will respond to the local legislative body, not to the JRB. The letter will describe the inaccuracy and direct the municipality on how to correct the error. The JRB may request, but not require, the municipality to correct the errors and resubmit the proposal.
  - » **If the legislative body decides to resubmit the proposal**
    - It must do so within 10 days of receiving DOR's letter
    - JRB must then act to approve or deny the TID resolution within 10 days of receiving the resubmitted proposal
  - » **If the legislative body decides not to resubmit the proposal**
    - DOR will not certify a new TID. Any costs already incurred in the TID creation, become the responsibility of the municipality's taxpayers.
    - DOR will not approve a TID amendment and the municipality cannot proceed with any action based on the amendment

### Important

DOR only reviews objective facts in hearing documents or resolutions for inconsistencies or factual inaccuracies. DOR does not review economic assumptions, eligible project costs, non-project costs, forecasts, projections, development estimates or other non-factual items.

## C. Substantial Compliance

DOR follows specific requirements in TIF law to approve or deny TID creations or amendments. If a municipality meets the essential statutory requirements for creating or amending a TID, but missed a certain requirement, then the municipality may use the substantial compliance process.

During a TID process, if a requirement is not met, the municipality must send a letter to DOR requesting a finding of substantial compliance. To have substantial compliance, the municipality must show the missed requirement does not affect the fairness of the process or the public's ability to participate in the process. Once received, DOR reviews the materials and decides whether substantial compliance is met. If it is, the municipality may create or amend the TID as if the law had been followed. For more information on substantial compliance, review [sec. 66.1105\(15\), Wis. Stats.](#)

### 1. TIF laws allow a municipality to request a finding of substantial compliance on:

- Public hearing notices including, failure to:
  - » Publish the required notices timely or correctly
  - » Include required wording on cash grants or indicate the project plan is available upon request
- Failure to:
  - » Notify the overlying taxing jurisdictions
  - » Notify property owners of a blight or rehabilitation/conservation TID
  - » Include all necessary information in the project plan
  - » Provide DOR all required documents

### 2. These requirements are not eligible for a finding of substantial compliance

- Plan Commission, Municipality or Joint Review Board fails to approve the resolution
- Required TID documents are not submitted to DOR timely, by:
  - » October 31 – creation, territory amendments, or base value redeterminations
  - » December 31 – project or allocation amendments

### 3. Head of government must submit a formal letter to DOR

#### Request must include:

- Details of the error, including the specific section of the law not followed
- Explanation of why the error occurred and how the interests of the public were not affected
- Request for a finding of substantial compliance
- Description of actions taken to ensure the error does not reoccur

If DOR determines the municipality complied with the law in a way that does not significantly affect the fairness of the TID process, then DOR approves the request. The TID approval proceeds as usual. DOR administers a new or amended TID certified under the substantial compliance provision in the same way it administers other new or amended TIDs.

If DOR determines the error did substantially affect the public, DOR must deny the request. The TID creation or amendment cannot proceed.

## V. Considerations for the Municipality

### A. "But For" Test

Tax Incremental Financing (TIF) benefits municipalities by encouraging development that would not occur without TIF assistance. This standard is called the "but for" test. The name comes from the assertion, "The development would not occur but for the use of TIF." In other words, the proposed development would not happen without financial support from TIF. For example, a development may not occur in a certain area because there are not enough streets, sidewalks, sewer lines or other types of physical infrastructure. After using TIF to build these improvements, the development becomes cost effective and proceeds.

#### 1. Making the "but for" finding

It is important all local officials understand and can justify the "but for" finding. When the Plan Commission and local legislative body review new developments requesting TIF, they should consider how the development could help their municipality and the effect on projected profits for the developer. Review [Questions to consider](#) for more information.

TIF law requires the Joint Review Board (JRB) to make the "but for" finding in its resolution, which approves the Tax Incremental District (TID) creation or amendment. This is one of three findings the JRB must make in its approval resolution. According to TIF law, the JRB must base its approval on three criteria listed in state law ([sec. 66.1105 \(4m\) \(c\), Wis. Stats.](#)), whether the:

- a. Development expected in the TID would occur without the use of TIF
- b. 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
- c. Benefits outweigh the anticipated tax increments to be paid by the owners of the property in the overlying taxing districts

The second and third criteria work with the "but for" test. Together meeting these criteria demonstrate that using TIF is justified. JRB members should ask relevant questions and request documentation to confirm claims related to the "but for" finding. They can hold additional public hearings if needed.

Before JRB members agree to the "but for" finding, they must have convincing evidence showing the TIF is necessary to make the development possible. The members sacrifice some tax revenue for the taxing jurisdiction they represent many years into the future. If TIF assistance is not needed before a development proceeds, the JRB members should not agree to the "but for" finding.

#### 2. What the "but for" finding means

When considering a new development project, there is often substantial risk involved for the developer. As a reward for taking the risk, the developer must make a certain profit. Even if the developer expects a profit, it may not be large enough to compensate for the risk; therefore, the project may not be worthwhile.

TIF can alter the profit picture by shifting some of the development costs from the developer to the taxpayer (ex: a site may require environmental cleanup, which can be costly. If a municipality cleans up the site and pays for it with TIF, the developer does not take on this cost).

Why would a municipality take on expenses and risks to increase the profits of a private developer? The basic concept of TIF is that there are some projects the municipality finds desirable, but are not profitable enough for private developers. By accepting increased risk and paying for physical improvements in the short-run, the municipality will benefit from an increased tax base once the TID terminates. The municipality must evaluate the short-term risks and the long-term benefits to determine whether a TIF project is worthwhile. The JRB must also agree the long-term benefit is worth the short-term cost.

## Examples and why the "but for" finding is important

1. A developer would like to build a strip mall on vacant land near a freeway interchange. The developer requests TIF assistance to pay for roads and sewer line connections. The municipality decides not to use TIF, but the developer builds the mall anyway. The developer pays for the roads and sewer lines in addition to the cost of constructing the building. The property value increases due to the site improvements. This results in increased tax revenue for the taxing jurisdictions without using TIF.
2. The same scenario but after the municipality decides against using TIF, the developer decides not to proceed with the project; the property is not developed and remains vacant. The small tax revenue from the vacant land continues to be collected.
3. The same scenario but this time the municipal government negotiates with the developer. After the developer shows how public funding of some infrastructure will make the project feasible, the municipality approves TIF. The vacant land value establishes the TID's base value. Later improvements (ex: construction of the mall) increase the value and create the value increment. The tax revenue on the value increment funds the roads and sewer lines.

In the first example, the municipality's tax base grows due to private investment. Growth usually occurs this way. As a result of the growth, the tax levy is distributed over more property value. In the second example, the development does not happen because the project is not profitable. The tax base does not grow and the tax levy stays the same. In the third example, the development happens using TIF. The municipal taxpayers pay for the infrastructure improvements. In the end, the tax base grows, but at the cost of higher tax levies during the TID life.

If a proposed development would occur without TIF, TIF should not be used because it will cost taxpayers more than it should for the resulting growth. However, if TIF is used to encourage a development that would not otherwise happen, the tax base can be increased, limiting the tax levy. The "but for" test is critical to this distinction. The "but for" finding means the JRB believes the development will not occur without some public assistance. The JRB is approving the use of property tax money to generate growth, which would otherwise fund its taxing district. A larger tax base helps reduce tax bills, so growth is key. By encouraging growth, TIF can be a useful tool to increase the tax base and control taxes.

## B. Risk Factors to Recognize

TIF is one of the most powerful tools available to local governments for encouraging development. Using tax revenues to finance certain site improvements encourages growth by attracting development; however, using TIF has risks, which include:

### 1. Over-investment

One of the most common TIF uses is to fund infrastructure improvements (ex: sewer lines, roads, curbs and gutters) that make a site more attractive to business. By enhancing the site with physical improvements, there may be fewer costs to locate and start a business. Municipalities are willing to make these investments because the private development should expand its tax base. When TIF is used, this growth pays for the infrastructure investments that encouraged it.

Municipalities can invest significant amounts of money in infrastructure improvements, hoping growth will follow. However, if little or no private development occurs, there may be no tax increment revenue to pay for those improvements. If there is no increment revenue, the bonds used to finance improvements must be paid for with general tax revenue. Paying for these bonds without a larger tax base, results in higher taxes.

Another risk of over-investing occurs when the site improvements prevent some development types from using the site. For example, roads, sewer lines, sidewalks and curbs installed in a TID allow almost any use of available land (ex: commercial, residential, industrial). New buildings; however, may limit the potential uses. In this case, the improvements meant to attract development could actually prevent it.

Municipalities can avoid over-investing by planning improvements in stages based on the TID's location or the amount of money they wish to invest. When using this approach, one area is improved and development occurs before moving to the next phase. Part of the TID grows before all the improvements are made. Each phase's development generates value increment, resulting in tax dollars to pay for the next phase of improvements. The phased approach encourages a steady growth rate and prevents the municipality from spending too much money before it is certain the development will occur.

## Important

TID project plans can be amended unlimited times during the TID's expenditure period. The TID boundaries can be changed up to four times. Using these amendments allow for flexibility in planning, which can reduce development risks. Review [TIF Amendments and Extensions](#) for more information on amendments.

## 2. Under-investment

The opposite of over-investing is not improving the site enough to attract development. If a site does not have any improvements, businesses may not find it attractive to locate there. If a municipality is too cautious using TIF to finance improvements, the expected development may not occur.

A coordinated approach may reduce this risk. Rather than waiting for large growth to ensure payment for the site improvements, coordinating important investments with sizable development ensures the growth and investment happen together. A well-written project plan and a phased approach to development help make a TID successful.

## 3. Dislocation

Municipalities might create TIDs to encourage the growth of a new retail or commercial district. These TIDs can use large sections of vacant land near the edge of town or highway intersections. This may be a great way to add to the non-residential tax base.

When a municipality already has a large retail area, it must consider how a new commercial development will impact existing businesses. For example, a new strip mall along a major highway may increase tax revenues and take advantage of a prime location. However, if the municipality has a downtown or main street corridor, the new development could reduce the retail business there. If using TIF damages existing businesses, the property value decreases may offset the property increases in the TID resulting in no net growth for the municipality.

A municipality must also consider the impact of its new development on neighboring communities. Individual municipalities create their own TIDs, but surrounding communities may be affected by those decisions. Municipalities should work together to increase growth and development. Joint Review Boards (JRBs) which include county, school, technical college and other representatives, should share concerns on how using TIF may impact each jurisdiction.

## 4. Excess growth

State law limits how much property municipalities can have in TIDs at one time. This restriction is the "12 percent value limit." The total value increment for all existing TIDs divided by the total Equalized Value of the municipality cannot exceed 12 percent. When a municipality reaches this limit, it cannot create any new TIDs and cannot add property to any existing TIDs.

A well-planned TID may create significant new growth, which results in substantial increment revenue, creating many projects or making costly projects feasible. The risk for a successful TID is having so much growth in the TID that the municipality exceeds the 12 percent limit. A fast growing TID in a small community could contain over 12 percent of the municipality's value after just a few years.

**Example:** Village of Beta has a total Equalized Value of \$1,000,000. To encourage growth, it creates an industrial TID made up of vacant land. As growth begins, the property value increases. When the TID's increment value exceeds \$120,000, the Village will pass the 12 percent limit.



Once the municipality reaches the limit, it cannot create any new TIDs until it terminates a TID or subtracts some property to reduce the increment value.

To avoid this risk, a municipality may plan a smaller TID, resulting in smaller increment value. The municipality can also create TIDs likely to generate development outside the TID. That way property values grow both inside and outside the TID, maintaining stable TIF capacity. The municipality can also remove some land from a TID to reduce the municipality's TIF usage. Using other incentives to encourage growth outside of TIDs can also help avoid this risk.

## 5. Impacts of growth

Using TIF to attract development can be a powerful way to expand the tax base. Municipalities must plan TIF development carefully to ensure it fits the community's overall composition. In Wisconsin, communities create "comprehensive plans" which describe growth expectations. TIF can help generate growth, but without careful preparation, TIF may actually work against the comprehensive plan. For example, a municipality designates an area for residential development; however, an industry wants to use TIF to expand in that area. Expanding industrial use may make the area less attractive for residential development. Municipalities should anticipate these effects when creating TIDs.

Another impact of growth municipalities must consider is increased demand on services (ex: emergency responders, police and fire protection, traffic, trash, water, schools and housing). The comprehensive plan should address these development impacts. For example, if the plan includes a large residential development, it must also address the increased demands on public schools as more families move into the district. Jobs are also an important factor to consider. New residents will not move to a new residential development without jobs in the area. Therefore, municipalities must consider the growth within the TID and outside the TID as a whole.

## 6. Political risks

The municipality's elected officials are responsible for creating TIDs, so the public may hold them accountable for any unfavorable outcomes. This makes planning the TID particularly important. TIF law requires one public hearing, but with a controversial proposal, additional hearings may be worthwhile. The Plan Commission, governing body, or JRB can hold hearings. These hearings allow additional opportunities for public input and for those opposed to make their case. Ultimately, the elected leaders decide what action to take, but hearing from their constituents may help them make a better decision.

## 7. Development risks

A TID's success depends on the amount of growth and private development. When the expected growth does not occur, the municipality must pay for the improvements with general-purpose tax revenue. This results in a higher tax levy.

Municipalities can use development agreements to reduce risk. These agreements establish both parties' expectations on the development itself and the timeframe. Some development agreements include a "look back" clause requiring periodic review of the developer's progress compared to specific expectations. These clauses may require assessment of the development generated compared to TIF costs spent. Other provisions can:

- Limit the profit a developer makes on the subsidized development (with surplus profits going to the municipality)
- Require specific property uses within the TID
- Require the developer pay some project costs if the development does not proceed as expected

If both parties agree to the development terms in advance, it decreases the chance of a conflict later.

## C. Intergovernmental Agreements

Many municipalities use boundary agreements to manage their growth in cooperation with each other. Two or more municipalities can use boundary agreements to arrange for providing services, plan for a future annexation, or document a tax sharing agreement. There are two types of TIDs requiring special agreements:

- **Cooperative TIDs** – require municipal officials to sign a boundary agreement
- **Multijurisdictional TIDs** – allow two or more cities to enter into an intergovernmental cooperation agreement under state law ([sec. 66.0301, Wis. Stats.](#)), to create a TID

Visit the Wisconsin Department of Administration website for more information on [boundary agreements](#).

### 1. Cooperative TIDs

State law ([sec. 66.1105\(16\), Wis. Stats.](#)), governs Cooperative TIDs, which are meant for towns with development needs closer to those of a city. A Cooperative TID allows a town that signs a boundary agreement with a neighboring city or village to exercise City/Village TIF powers following [sec. 66.1105, Wis. Stats.](#) This allows creation of additional TID types not usually available to towns, including industrial, mixed-use, rehabilitation/conservation, blight and environmental remediation. The same rules and timelines that apply to a TID created under [sec. 66.1105, Wis. Stats.](#), apply to a Cooperative TID.

**Note:** A cooperative TID can only be created in a town that shares a border with a city or village. Without that common border, a boundary agreement cannot be signed.

**Along with the other forms, hearings and resolutions, a Cooperative TID also requires the:**

- Town to enter into a cooperative plan with a city/village, under [sec. 66.0307, Wis. Stats.](#) In this plan the city/village agrees to annex all or part of the town in the future.
- City/village, that is annexing the town, to adopt a resolution approving the creation of the Cooperative TID
- Cooperative TID to be completely within the territory that will be annexed by the city or village

Cooperative TIDs have the same lifetime, expenditure period, reporting requirements and audits as other TIDs created in a city/village under [sec. 66.1105, Wis. Stats.](#) Review [TIF Details](#) for more information.

**After the city/village annexes the land in a Cooperative TID, the city/village must administer the TID according to the requirements in [sec. 66.1105\(6\), Wis. Stats.](#)**

The TID also has these conditions:

- Creation date is the date the town originally adopted the resolution creating the TID
- Project plan is the plan approved by the town when the TID was created

### 2. Multijurisdictional TIDs

State law ([sec. 66.1105\(18\), Wis. Stats.](#)), governs Multijurisdictional TIDs. Except for TIDs created under this section, a TID can only be created in one municipality. However, some cities have development needs that would better be accomplished if they could collaborate with other cities. A Multijurisdictional TID allows two or more cities that enter into an intergovernmental cooperative agreement to create a TID jointly.

**The same rules and timelines for a TID created under [sec. 66.1105, Wis. Stats.](#), apply to a Multijurisdictional TID.**

Multijurisdictional TID must also follow these requirements:

- Two or more cities must enter into an intergovernmental cooperation agreement under [sec. 66.0301, Wis. Stats.](#)
- TID's borders must contain territory in all of the cities that are part of the agreement
- District's area must be contiguous
- At least one parcel in each participating city borders at least one parcel in at least one of the other cities

## **a. Intergovernmental cooperation agreement must contain:**

1. Detailed description of how the participating cities can meet the requirements of [sec. 66.1105, Wis. Stats.](#), and exercise the authorized powers
2. Detailed description of how decisions will be made related to incurring debt, spending funds for project costs, and distributing positive tax increments allocated by the Wisconsin Department of Revenue (DOR)
3. Extent to which one of the cities will be authorized by the other participating cities to act on behalf of the other cities on some or all matters relating to the district
4. Binding dispute resolution procedure including provisions allowing the cities to dissolve the district
5. Detailed description of the proposed membership for the Joint Review Board
6. Detailed description of the responsibilities for each city's planning commission, the membership and authority of the TID's planning commission, and the operating procedures of the TID's planning commission
7. Detailed description of the responsibilities for each city's clerk, treasurer, assessor, and any other official carrying out the TIF law requirements, and which clerk, treasurer, assessor, or official will be responsible for each task specified in the law
8. Statement identifying the lead city responsible for completing any documents or tasks
9. Agreement that the lead city will submit all the TID's documents at one time
10. Statement that the entire TID will terminate at one time (as a single entity) and that the lead city will submit all necessary termination notices and reports to DOR
11. Detailed description of the procedures participating cities will follow to determine:
  - a. When the TID's life may be extended
  - b. How the project plan or boundaries will be amended
  - c. How any annexation costs incurred will be shared

## **b. Limitations on a Multijurisdictional TID include:**

- It may not become a donor district or receive tax increments from a donor district
- It may not incur project costs for any area that is outside the TID's boundaries
- The 12 percent value limit applies to all cities that are part of a Multijurisdictional TID. The total base value of the Multijurisdictional TID plus the existing value increment for TIDs in an individual municipality divided by that municipality's Equalized Value equals the value limit percent.
  - » Exception – when an individual city exceeds the 12 percent limit, if the governing bodies of the overlying taxation districts for that city adopt a resolution approving the TID's creation even though that city exceeds the 12 percent limit, the TID may be created

Multijurisdictional TIDs have the same lifetime, expenditure period, reporting requirements, and audits as TIDs created under [sec. 66.1105, Wis. Stats.](#) Review [TIF Details](#) for more information.

## **3. Boundary agreements**

Growth near municipal borders can strain relations between municipalities because development affects surrounding areas. Issues including, cost of servicing the new growth, increased pollution or traffic, effects on the housing market and on public schools, and other complicated matters can create problems. Neighboring municipalities may consider using boundary agreements. By partnering to address these and other issues, local leaders may be able to prevent problems. Solutions, such as collaborative services (where one municipality provides services to another at a negotiated price), tax sharing, annexation agreements, border freezes, and cooperative development can be explored.

Each solution is unique to the issue facing the specific municipalities. Municipalities interested in using boundary agreements can consult the [Wisconsin Department of Administration](#) or the [University of Wisconsin Cooperative Extension](#).

## 4. Comprehensive plan

Long-term growth in a community is often facilitated by creating a comprehensive plan. Growing communities should consider the need for a comprehensive plan to help direct growth. State law outlines the necessary parts of a comprehensive plan in [sec. 66.1001\(2\), Wis. Stats.](#) These include housing, transportation, economic development and intergovernmental cooperation.

## D. Effects on Other Taxing Jurisdictions

Although cities, villages and towns create TIDs, other taxing jurisdictions participate in financing a TID. Counties, school districts, technical college districts, metropolitan sewer/town sanitary districts and lake protection/rehabilitation districts all provide TIF through their property taxes. Officials in these districts should understand how the use of TIF in their districts affect tax collections. Review [How TIF Works](#) for more information.

### 1. School districts

A large part of tax increment revenue is from the school levy. In most areas, the school levy represents the largest portion of the property tax bill. The difference between the schools apportioned levies and taxes actually collected is the tax increment. The school levy has revenue caps, but within those limits, the school receives the money it needs to operate. A municipality with a TID has a larger levy due to the tax increment; the apportionment is based on the Equalized Value minus the value increment. As a result, the school tax rate in all the municipalities within the school district is the same. When the TID closes, the larger tax base helps reduce the tax burden on school district residents.

### 2. Technical college districts

State aid to technical college districts works the same way as aid to the K-12 school districts. Aid payments are based on the Equalized Value per pupil. The value increment in the district is not counted towards the Equalized Value. This contributes to replacing the revenue that would have been generated by that portion of the property value. Similar to the school districts, the creation of a TID results in temporarily larger levies. However, the tax levy may be reduced over the long term if the TID generates growth. In that case, taxpayers will pay less after the TID closes than they might have paid without the TID.

### 3. County governments

Counties also receive aid from the state. The aid is based on several factors including the county's Equalized Value. Creating a TID results in larger levies in the short term. Like other taxing jurisdictions, a county benefits from TIF in the long run if it creates development that would not have happened without using TIF. When this is the case, the tax base expands and the tax levy is potentially reduced.

### 4. Special districts

Voters can choose to form special taxing jurisdictions for certain purposes, such as lake protection and rehabilitation, sewer management, and sanitary services. These special districts do not receive state aid and depend entirely on their taxable property to generate revenue. When a TID is created, the TID's property value increase is removed from the Equalized Value of the district for tax apportionment purposes. Instead, the value increment is used to calculate the tax increment and pay for improvements. If the TID generates growth that would not have occurred otherwise, it benefits the special district's taxpayers because the tax base will expand and help reduce the tax levy.

## VI. Tax Incremental Financing (TIF) Glossary

### A. TIF vs. TID

It is important to understand the difference between these two terms:

**TIF** – Tax Incremental Financing; a financing tool available to municipalities to encourage economic development that would not occur without public assistance

**TID** – Tax Increment District; the contiguous geographical area within a municipality identified for development using Tax Incremental Financing. A TID consists of whole units of property assessed for general property tax purposes not including railroad right of ways, rivers or highways, or wetlands ([sec. 23.32, Wis. Stats.](#)).

### B. Other Terms and Concepts

**Annexation** – the transition of land from the control of one entity to another. In relation to TIF law, this usually refers to town territory annexed by a city or village. After January 1, 2004, annexed land cannot be included in a new TID or added to an existing TID, unless one of the following applies:

- At least three years passed since the annexation occurred
- City/village enters into a cooperative boundary agreement with the Town
- City/village and town enter into an agreement where the city/village pledges to pay the town an amount equal to the property taxes levied on the annexed territory for each of the next five years

**Amendment** – general category for types of changes to a TID. All amendments must be submitted to the Wisconsin Department of Revenue (DOR) for approval. Review [TIF Amendments and Extensions](#) for amendment details.

- **Allocation** – giving an identified amount of increment funds from one TID (donor TID) to help pay the costs of another TID (recipient TID). Review the [Allocation Amendment Fact Sheet](#) for more information.
- **Project plan** – a change to the TID project plan. Often this adds projects, modifies eligible costs, adds cash grants, adds half mile radius option, or changes financial plans.
- **Territory** – a change to the area or boundary of a TID. Territory may be added or subtracted up to four times during the life of a TID. The TID boundaries must remain contiguous.
- **Base value redetermination** – a reduction of the TID's base value. The TID's Equalized Value must be at least 10 percent below the current base value of the TID for two consecutive years.

**Base value** – the aggregate value, as equalized by DOR, of the real and personal property located within the TID as of the valuation date.

**Blighted area** – areas in a damaged condition. TIF Law provides two specific meanings for the designation of blight. Neither definition includes any open land developed only for agricultural purposes:

- **Definition 1:** An area in which the structures, buildings or improvements contribute to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and are detrimental to the public health, safety, morals or welfare, due to dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light air, sanitation or open spaces, high density population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes
- **Definition 2:** An area which is predominantly open and which consists primarily of an abandoned highway corridor as defined in [sec. 66.1333\(2m\)\(a\), Wis. Stats.](#) or that consists of land on which buildings or structures have been demolished and because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, substantially impairs the sound growth of the community

**Boundary agreement** – an agreement between two municipalities about their cooperation regarding issues such as land use, services, revenues, or boundaries. For TIF, this type of agreement allows territory annexed from a town after January 1, 2004 to be included in a TID even if three years have not passed since the annexation. [Sec. 66.0307, Wis. Stats.](#), provides for the boundary agreement mentioned in TIF Law. Review [Intergovernmental Agreements](#) for more information.

**Cash grants** – payments made from tax increments to owners, lessees or developers of property included in a signed development agreement.

**Class 1 notice** – legal announcement of a meeting or hearing following [ch. 985, Wis. Stats.](#) This notice requires one publication at least seven days before the event. The public notice must be published in a newspaper likely to notify the people or place affected by the TID. The notice must say when, where and for what purpose the meeting or hearing is being held. Public hearings regarding any type of TID amendment require a Class 1 Notice; however, all Joint Review Board (JRB) meetings regarding the TID require notice at least five days before the meeting.

**Class 2 notice** – legal announcement of a meeting or hearing following [ch. 985, Wis. Stats.](#) This notice requires two publications, one in each of two consecutive weeks with the last published at least seven days before the event. The public notice must be published in the newspaper likely to notify the people or place affected by the TID. The notice must say when, where and for what purpose the public hearing will be held. Public hearings regarding the creation of a TID require a Class 2 Notice.

**Creation** – the process of identifying a contiguous geographic area targeted for development and submitting an application requesting DOR designate it as a TID.

**Creation date** – the date the municipality adopts the creation resolution for the TID. The creation date determines the maximum life and the beginning of the expenditure period. Only costs related to planning for the TID can be incurred before the creation date.

**Creation resolution** – the municipality's formal document approving the TID. This document must contain specific information about the TID. Review the [Resolution Checklist](#) for details on content.

**Current value** – the total equalized value of the real and personal property in the TID as of January 1 of the current year, certified annually on September 1.

**Decrement situation** – when the aggregate value, as equalized by DOR, of all taxable property within the TID is at least 10 percent less than the current base value for two consecutive years.

**Distressed TID** – designation in the TIF law that allowed a TID more time to pay off project costs. This designation ended September 30, 2015. Distressed TIDs added 10 years to their maximum life.

**District type** – one of five categories of TIDs. The creation resolution must declare the TID type. The five types of TID are blighted, rehabilitation or conservation, industrial, mixed-use, and environmental remediation. The declaration is based on the type of land that makes up 50 percent of the area in the TID, or which of the five (by area) is predominant in the TID.

**Environmental pollution** – the contaminating or rendering unclean or impure the air, land or waters, or causing damage or harm to public health, fish, bird, animal or plant life, or harmful for commercial or recreational use. ([sec. 299.01\(4\), Wis. Stats.](#))

**Environmental Remediation district** – a TID with significant environmental pollution. Before creating an Environmental Remediation TID, the municipality must obtain a site investigation report certified by the Wisconsin Department of Natural Resources. In the report, the municipality must describe the pollution, how it will be cleaned up, costs and a timeframe for the clean-up.

**Equalized value** – the DOR process of creating a uniform value for all general property in the state. Equalized property value is based on 100 percent of market value.

**Expenditure** – the exchange of money for the delivery of goods or services. No TID expenditures may be made before the adoption of the municipal resolution, except for costs directly related to planning for the TID. TIF law lists eligible expenditures:

- a. **Capital costs** – such as public works; new buildings or structures; demolition, remodeling, repair or reconstruction of existing buildings; environmental remediation; and the clearing of land
- b. **Financing costs** – including interest paid to bond holders and premiums paid for early redemption of bonds
- c. **Property assembly costs** – meaning a deficit incurred due to the sale or lease of land within a TID for less than its cost to the municipality
- d. **Professional services** – such as planning, architectural, engineering, accounting, consulting, legal advice and sales
- e. **Administrative costs** – for municipal employees directly related to creating the TID or time spent implementing the TID project plan
- f. **Relocation costs** – including relocation payments made following condemnation under [sec. 32.19, Wis. Stats.](#)
- g. **Organizational costs** – related to environmental impact statements and public notices
- h. **Payments** – to a town for property taxes on annexed land included in a TID
- i. **Portion of major infrastructure projects** – inside or outside the TID that will serve the land in the TID (e.g., water tower, water treatment plant)
- j. **Removal or containment of lead contamination** – in buildings or infrastructure that the municipality declares a public health concern
- k. **Developing newly-platted residential areas in a mixed-use TID** – when the residential development meets certain qualifications
- l. **Cash grants** – if a development agreement is signed
- m. **Fee to DOR** – to certify the base value of a TID

**Expenditure period** – the time during the life of the TID when expenses may be incurred to implement the approved projects. The maximum expenditure period for all districts (except Environmental Remediation districts created before November 2017) ends five years before the unextended maximum life of the TID. Environmental Remediation TIDs created before November 2017 have a 15-year expenditure period.

TID Expenditure Period	
TID Type	Maximum Expenditure Period
Any before October 1995	22 years
Blight or Rehabilitation/Conservation after October 1995	22 years
Industrial after October 1995 but before October 2004	18 years
Industrial or mixed-use after October 2004	15 years
Environmental Remediation before November 2017	15 years
Environmental Remediation after November 2017	22 years

**Extending TID life** – requesting extra time for the TID. This extends the TID maximum life. Review [Amendments and Extensions](#) for details on obtaining an extension.

**Three extension types:**

1. **Affordable housing extension** – a one-year extension to the TID maximum life when the additional increment is used to improve housing. The TID must have paid its project costs. The municipality must adopt a resolution approving the extension.
2. **Standard extension** – a non-specific statutory extension. The length of the extension depends on the type of district (review [TID Criteria Matrix](#) for details). The JRB must approve this extension to the TID maximum life.
3. **Technical college extension** – a three-year extension to the TID maximum life when the TID increment was negatively impacted by [2013 Wisconsin Act 145](#). This act increased state aid to the technical colleges. The JRB must approve this extension to the TID maximum life.

**Industrial development** – land suitable for industrial sites. Any real property within a TID that is suitable for industrial sites and is zoned for industrial use must remain zoned for industrial use for the life of the TID.

**Ineligible project costs** – expenses that may not be paid for with the tax increment revenue. TIF law identifies the following ineligible project costs:

- Constructing or expanding administrative, police and fire buildings, libraries, schools, recreation and community buildings, unless they were destroyed before January 1, 1997 by a natural disaster
- Constructing any building or facility if the municipality generally finances similar facilities only with utility user fees
- General government operating expenses that are unrelated to the planning or implementation of the project plan
- Cash grants made by the municipality to owners, lessees, or developers of land within the TID, unless the recipient has signed a development agreement with the municipality. A copy of the agreement must be sent to the JRB or, if the TID has terminated, retained in the official records of the TID.

**Joint Review Board (JRB)** – a committee with members representing the overlying taxing jurisdictions responsible for approving or denying the creation or amendment of a TID. When creating a TID the municipality must create a standing JRB to vote on all TID actions and review the TID Annual Report. A standing JRB must continue until all the TIDs within the municipality are terminated. Review [Joint Review Board](#) for more information.

**Lands proposed for newly platted residential use** – state law does not define the phrase "lands proposed for newly platted residential use." "Platting" refers to the mapping and dividing of land for planning purposes. The word "residential" commonly means relating to a place where people live. When reviewing a project plan, DOR considers the current use, or zoning, and the future use, or zoning, as indicators of whether an area consists of "lands proposed for newly platted residential use." An example of "lands proposed for newly platted residential use" would be subdividing a farm field for housing. Under state law, increment revenue may only be spent on newly platted residential development in a mixed-use TID if the TID includes less than 35 percent of lands proposed for newly platted residential use and if one of the following applies:

- Density of the residential housing is at least three units per acre
- Residential housing is located in a conservation subdivision, as defined in [sec. 66.1027\(1\)\(a\), Wis. Stats.](#)
- Residential housing is located in a traditional neighborhood development, as defined in [sec. 66.1027\(1\)\(c\), Wis. Stats.](#)

**Local legislative body** – municipal governing body responsible for administering local government (such as, the village/town board, city council or common council). This body must adopt a resolution to create, amend, or terminate a TID; or extend the TID's life for affordable housing.



**Mixed-use district** – TID with a combination of residential, commercial, and industrial uses. Mixed-use TIDs can only include lands proposed for newly platted residential use if they do not exceed 35 percent, by area, of the real property in the TID and the residential development meets other qualifications.

**Multijurisdictional district** – TID created by two or more cities that have entered into an intergovernmental cooperation agreement under [sec. 66.0301, Wis. Stats.](#), which addresses the provisions required by [sec. 66.1105\(18\)\(b\), Wis. Stats.](#)

**Municipality** – a city, village or town.

**Non-project costs** – project expenses that are not eligible for TIF increment funds or that are paid for with other types of revenue, such as a grant. Any non-project costs in the TID must be detailed in the project plan.

**Overlying taxing jurisdiction** – school districts, county governments, technical college districts and other special districts (such as sanitary districts, sewer districts or lake rehabilitation districts). The tax increment generated by the levies of each of these jurisdictions is collected by the municipality that manages the TID to pay for the approved project costs. A representative from the county, municipality, school and technical college districts serves on the JRB.

**Planning commission** – a committee that creates and adopts a master plan for physical development of the municipality as specified in [sec. 62.23, Wis. Stats.](#) If a municipality has no planning commission, a board of public land commissioners or the plan committee may serve this role. Steps assigned to the planning commission under TIF law may be carried out by the Redevelopment or Community Development Authority of the municipality.

**Project costs** – any expenditure planned or made that can be paid for with tax increment revenue. DOR does not make decisions on the eligibility of specific project costs. Each municipality must consult with its legal and accounting advisors to decide whether a project or specific cost is eligible under TIF law.

**Project plan** – a document explaining the financial details and development plans for the TID.

**Public hearing** – the presentation of the TID project plan before the planning commission where the community may voice its opinion on the TID. As part of creating or amending a TID, the planning commission must hold public hearings and make copies of the project plan available.

**Rehabilitation or conservation work** – to restore, preserve or repair. Defined for the purposes of TIF law in [sec. 66.1337, Wis. Stats.](#), rehabilitation and conservation includes any of the following (these descriptions do not override the restrictions on project costs defined above):

- Operating a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements
- Acquisition of real property and demolition; removal or rehabilitation of buildings and improvements on the property to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate uses detrimental to the public welfare, remove or prevent the spread of blight or deterioration, or provide land for needed public facilities
- Installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for the objectives of an urban renewal project
- The disposition of any property acquired in the area of the project for uses meeting the objectives of the urban renewal project

**Severely distressed TID** – designation in the TIF law that allowed a TID more time to pay off project costs. This designation ended September 30, 2015. Severely Distressed TIDs were allowed a maximum life of 40 years from the creation date.

**Substantial compliance** – when the essential (substantial) requirements of the statutes are met even though the formal requirements were not. When creating a TID, if certain requirements are not met, the municipality may submit a written request to DOR asking to find substantial compliance. This means that despite certain errors, irregularities or informalities of the TIF law, a TID may be created because substantial justice was not affected. This process allows DOR more flexibility in reviewing and approving TIDs.

**Tax base** – the total of all equalized real and personal property in an entire municipality or taxing jurisdiction on which property taxes are levied.

**Tax increment** – the taxes levied by all overlying taxing jurisdictions on the value between the base value and the current value of the TID. These taxes are collected by the municipality that operates the TID and used to pay for the approved project costs. Review the [TID Creation Timeframes](#) for information on when increments begin for a new creation. Review [TID Termination Timeframes](#) for information on when increments end for a termination.

**Termination** – the process of ending a TID. This includes notifying DOR and filing the appropriate audit documents with DOR. After the tax increments collected exceed project costs or the TID reaches its maximum life, it must terminate. This process can be initiated by the municipality before the maximum life date and before all project costs are paid off. If a TID is terminated and there is remaining debt then it becomes the municipality's responsibility to fulfill the remaining obligation. Review [TIF Termination](#) and [TID Termination Timeframes](#) for more information.

**Valuation date** – January 1 of the year the TID is created or amended. The date the municipality adopts the creation resolution determines the creation year. Review the [TID Creation Timeframes](#) to determine the creation year.

**Value increment** – the difference in value between the base value and the current value of the TID. This is the amount of property value that can be attributed to the TIF investment and the portion of the tax base that is used to generate the tax increment that pays for the investment.

**Value limit** – a way to determine if the municipality can create a TID. The value of taxable property in the new TID plus the value increment of existing TIDs divided by the total municipal equalized value cannot exceed 12 percent. This limit also applies when adding territory.

## VII. Resources/Contact Information

For more Tax Incremental Financing (TIF) information:

- Visit the [TIF Information](#) page on our website
- Contact us at [tif@wisconsin.gov](mailto:tif@wisconsin.gov)