Cleaning up Tax Increment Financing

Rethinking Chicago's Troubled Redevelopment Program

Illinois PIRG Education Fund

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January 2012

Acknowledgments

The authors wish to thank Richard Dye for his insightful comments and suggestions. Thanks also to Tony Dutzik and Benjamin Davis of Frontier Group and Phineas Baxandall of U.S. Public Interest Research Group Education Fund for their writing and editorial assistance. Additionally, the authors wish to express their gratitude to Ben Joravsky and Mick Dumke of the Chicago Reader for their reporting on this issue, and to the members of Chicago's TIF reform task force for their research on the city's TIF program. Their work was invaluable in preparing this report.

Illinois PIRG Education Fund is grateful to the Ford Foundation for making this report possible.

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Design: Harriet Eckstein Graphic Design
Cover photo: Paul Velgos

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Executive Summary

Every year, $500 million worth of property tax revenue collected in Chicago flows into funding pools shielded from public scrutiny and democratic control—the bank accounts of the city's Tax-Increment Financing (TIF) districts. That money—10 percent of Chicago's annual property tax revenue—is intended to promote development in struggling areas of the city, but the fashion in which it has been handled in the past—without full transparency, democratic oversight, or accountability for the recipients of funds—has opened the door to misuse of public money.

Chicago has 163 TIF districts, or areas in which a portion of tax revenue is set aside into special accounts. The revenue collected by those districts is spent outside ordinary city budget processes, allowing for unsupervised spending, political horse-trading, and a concentration of spending authority in the mayor's office.

Mayor Rahm Emanuel has vowed to reform the city's TIF process, and convened a reform panel to recommend improvements. The reform panel's recommendations point in the right direction, but would not correct the fundamental problems with Chicago's TIF program. **City leaders should adopt the reform panel's proposals and then go further—taking the steps necessary to rein in overuse of TIF, prevent TIF districts from becoming a piggy bank for projects unrelated to their original purpose, and provide transparency and accountability in the TIF process.**

Chicago's TIF process is in need of reform. TIF spending takes place without full public transparency, making it hard for residents to determine how their tax dollars are being used. Residents cannot, for instance, find information about TIF spending in a convenient form online.

- TIF spending takes place outside of the city's budget process, making it hard to consider TIF expenditures in the context of the city's overall development needs and undermining democratic control. Even aldermen have been denied access to the city's overall TIF budget.

- TIF districts—which in theory offer "free money" for development by triggering growth and then capturing the revenue that results from that growth—can end up taking money away from other purposes by diverting tax revenue that would otherwise have flowed into general tax funds from inflation or ongoing growth.

- TIF districts often operate without a clearly defined plan, spinning off money that becomes the basis for a "shadow budget" under the mayor's control. In the past, aldermen have reported that the mayor's office used the promise of new TIF spending in their districts as leverage to win their votes in the City Council.

- Developers who receive TIF subsidies are rarely, if ever, held accountable for delivering the benefits promised. When Republic Window and Door closed its Chicago plant in 2009, for instance, the city had no way to reclaim a share of the subsidies the company had received, which were intended to support jobs through 2019.

Vowing to reform Chicago's TIF process, Mayor Rahm Emanuel created a panel of TIF experts to review the city's policies and historical use of TIF and recommend improvements. **Mayor Emanuel's TIF commission has proposed reforms that would move the city in the right direction, but more needs to be done.** The mayor and the City Council should:

- Adopt the commission's proposal to **include TIF spending in overall city budgets**, which would place TIF spending under more democratic control.

- Adopt the commission's proposal to **measure the performance of TIF districts and projects, and hold developers accountable** for providing agreed-upon benefits by including provisions in subsidy contracts that call for repayment of subsidies if targets are not met.

- Build on the initial steps towards greater transparency in TIF spending taken after passage of a 2009 TIF Sunshine Law by **adopting "Transparency 2.0" best practices that allow residents to easily monitor city spending online**.

- **Use TIF only in areas where it promises real benefits to the city**, by setting a high standard for the creation of TIF districts.

- **Close TIF districts once they fulfill their initial redevelopment plan**, or require reauthorization if they are to continue with a new redevelopment plan. Districts should not continue diverting money once the purpose for which they were created has been achieved.

After years in which Chicago's TIF program was allowed to grow into an unaccountable, unsupervised program accounting for 10 percent of the city's property tax revenue, the city government is beginning to take steps to return TIF to its originally intended uses. Further action and long-term commitment from city leaders will be required, however, if the city is to transform the TIF program from an overgrown shadow budget into an effective and targeted tool for promoting development.

Introduction

In 2008, as the economy struggled and Chicago politicians raced to patch a several hundred million dollar hole in the city budget, the city spent $350 million to fight blight in the Central Loop.

The Central Loop, of course, is far from blighted. True, it faces many of the same challenges as any urban downtown area. But there is plenty of reason to question whether taking $350 million that would otherwise have supported police, fire, education and other critical public services and using it to support development in the city's thriving downtown district was really a sound use of public funds.

Unfortunately, when it comes to how money is spent in Chicago's many Tax-Increment Financing (TIF) districts—like the one in the Central Loop—the public, and even many elected officials, have little opportunity to ask questions or make their opinions known. TIF was originally created to help cities like Chicago spark investment in blighted areas that would otherwise have little hope of turning themselves around. Over the years, however, Chicago's TIF program has outstripped its original mission, as well as the boundaries of both good government practice and simple common sense.

Today, one out of every 10 property tax dollars collected in Chicago is earmarked to support development in one of the city's 163 TIF districts, which include areas of the city that are far from "blighted." Those funds are allocated not through the traditional budget process but through a separate process that has been heavily controlled by the mayor's office. The recent track record of the TIF program includes numerous stories of TIF being used as a piggy bank for subsidies to well-connected developers and rewards for political supporters, rather than as a legitimate economic development tool.

Chicago now has the opportunity to turn the TIF program around and restore it to its original purpose. Mayor Rahm Emanuel has vowed to make TIF reform a priority of his administration and his TIF reform panel has developed recommendations that will begin to move the program in the right direction.

The reform panel's recommendations are a positive step, and should be implemented—with strong follow-up to ensure that the reforms made are meaningfully enforced. Beyond that, however, Chicago will need to take further steps to restrict overuse of the TIF mechanism and ensure that TIF district funds are limited to uses that serve their redevelopment mission.

Basics of Tax-Increment Financing in Chicago

In 2011, 10 percent of the tax revenue Chicago took in bypassed the police, fire department, streets and sanitation department, and all the other purposes on which the city spends its general revenue, and went directly into a series of special funds separate from the city's general budget—the accounts of the city's 163 tax-increment financing (TIF) districts.

Tax-increment financing is a mechanism, invented in the 1950s, that allows municipalities to obtain funding for development efforts by setting aside a portion of the tax revenue generated within a district over a period of time. In the 1970s and 1980s, as federal urban redevelopment funds disappeared, cities across the country—including Chicago—began to look to TIF as an alternative.

Life Cycle of a Tax-Increment Financing District

Every TIF district differs from others in its particulars, but all work according to the same mechanism. This section lays out the basic steps that take place during the creation, operation, and closure of a TIF district in Chicago.

Creation

The life of a Chicago TIF district begins with a proposal to invest in redeveloping an area. The proposal can come from any source—an interested developer, the mayor's office, or an alderman, for instance. Before a new district is created:

- The Department of Housing and Economic Development has to review the proposal and certify that the proposed district is needed to create economic growth—or, to use the technical phrase, that development would not take place "but for" the subsidy. The department prepares a redevelopment plan, describing how the city plans to improve the district. The city also has to assert that the district is "blighted"—run down or physically deteriorating.

- A "Joint Review Board" composed of representatives from the overlapping tax districts affected by the new district (the school board, for instance) has to review the district, and recommend for or against creating it.

- Plans for the district must be presented at a public hearing.

- The City Council must approve the district and the proposed redevelopment plan. If the Joint Review Board has recommended against the district, a 60 percent vote in favor is required for passage in the City Council. [1]

Districts can be one of two different types. **Project-specific** TIF districts usually contain only a single property or a set of properties that a developer plans to develop in concert. A project-specific TIF district is created to support a developer's plans for the properties in question, and all the district's revenue is allocated for that purpose from the time the district is created.

Area-wide TIF districts, which are more common in Chicago, encompass multiple properties over a broader area, and aim to support redevelopment of that area as a whole.[2] Area-wide TIF districts offer the city the latitude to select new projects to fund over the lifetime of the district.

Operation

Once a TIF district is created, any additional property tax revenue generated as a result of an increase in property values in the district (as opposed to changes in the tax rate) is diverted away from the tax districts that would ordinarily have received those taxes and into a special fund. For the next 23 years (or until the district closes) those entities will receive tax revenue only on the value of the properties in the TIF district at the time the district was created. (See Figure 1 for a generalized example.)

One crucial feature of tax-increment financing is that TIF districts divert taxes not only from the city's share of the area's revenue, but also from the other taxing districts that collect from the area, and thus

Figure 1: Revenue Allocation in TIF Districts

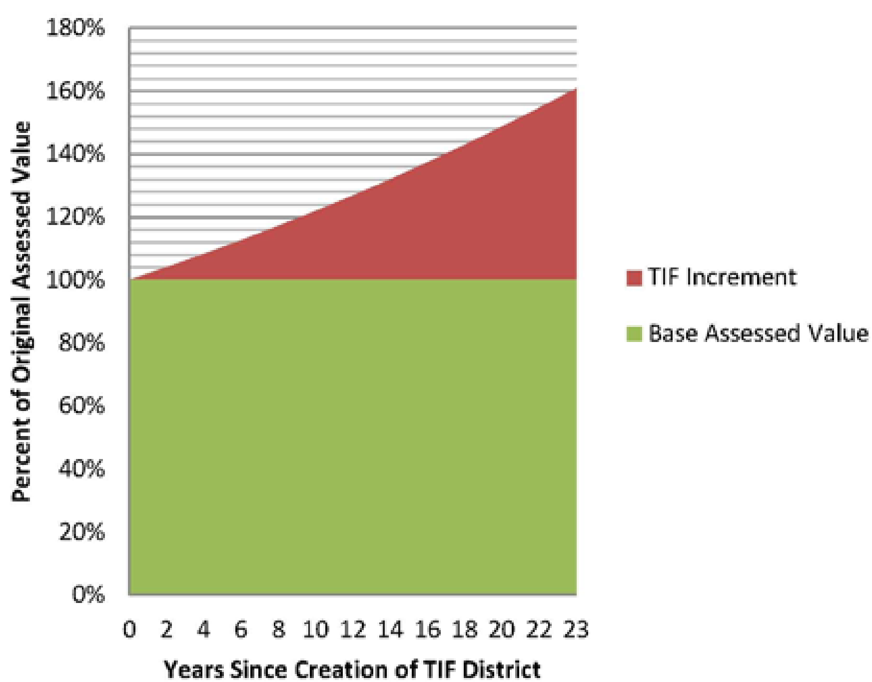
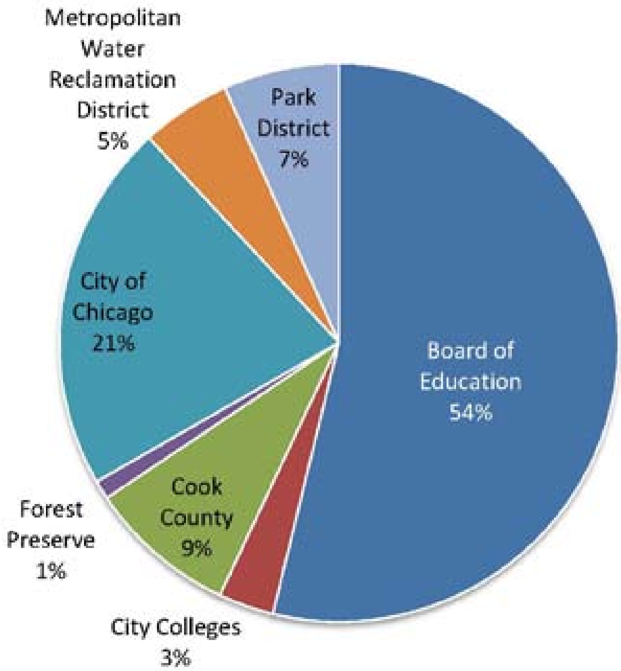


Figure 2: Shares of Chicago Tax Revenue by Taxing District[4]



divert revenue from those other districts as well. In Chicago, most of the city is covered by a number of overlapping tax districts. The districts covering the entire city are:

- City of Chicago
- Cook County
- Cook County Forest Preserve District
- Metropolitan Water Reclamation District of Greater Chicago
- Chicago Board of Education
- Chicago Park District
- City Colleges of Chicago[3]

As assessed property values in the TIF district rise, any new revenue occasioned by the increase in property value flows into the TIF district's account. This revenue—the "tax increment" from which the mechanism takes its name—is the source of the development funds that the district will spend over its lifetime.

Once a district is created, the city has several options for spending the revenue it takes in. The city can issue bonds secured against the future revenue to be captured by the district, thus acquiring an immediate infusion of cash to jump-start development in the area. The bonds are then paid back with revenue collected by the district over time. Alternatively, the city can allow funds to accumulate in the district's bank account and pay for projects with the cash it has on hand.

The city can spend TIF funds on several kinds of projects, including public infrastructure construction, support for private development efforts, and programs aimed at providing small-scale assistance to small businesses and property owners in the area. Chicago has historically spread TIF funds over a wide range of different activities. Over the entire history of the TIF program, the city has spent 50 percent of its TIF funds on private development, 46 percent on public works, and 4 percent on programs that provide direct aid to small businesses or property owners.[5]

Different kinds of projects require different levels of scrutiny; the mayor's office can spend money on many public infrastructure projects without seeking outside approval, but transferring funds to another government agency or to a private developer requires explicit approval from the City Council and the Community Development Commission, a board appointed by the mayor and confirmed by the City Council. The mayor's office can also transfer, or "port" funds between adjacent districts, within certain limits. From 2005 to 2009, Chicago "ported" about five percent of its TIF funds; in 2010, that level increased to 15 percent, and will likely remain there through 2013, in part to fund the city's Modern Schools Initiative, which involves constructing new schools across the city.[6]

Once a TIF district has met its initial development objectives, several things can happen. The district can close, as described below, or the mayor's office can create a new redevelopment plan, which can be implemented after review at a Joint Review Board and public hearing. If the city judges that a TIF district needs more than 23 years to complete its objectives, it can ask the state legislature to extend the life of the district by an additional 12 years.

Closure

Once a TIF district either completes its redevelopment objectives or reaches the end of its lifetime, it closes. From that point forward, the city and the other overlapping tax districts covering the area receive all the property tax revenue collected in the district. Any funds remaining in the district's account at the time it closes are distributed to the tax districts covering the area, with each district receiving the same proportion of the accumulated funds as it receives of property taxes collected in the area.

Chicago Has Misused TIF in the Past

Tax-increment financing offers cities access to resources for investments to promote development. Municipalities that would otherwise lack the resources to prompt investment in struggling areas turn to TIF for funds to entice private developers back into those areas. Those funds, however, may also be directed for less publicly beneficial activities.

In practice, Chicago has used TIF too often and without proper transparency and accountability measures.

The city of Chicago began using TIF for development in 1984, under Mayor Harold Washington. It was in the late 1990s, however, under Mayor Richard M. Daley, that the development tool Daley once described as "the only game in town" became a centerpiece of the city's development strategy. Between 1998 and 2002, the city added 86 new TIF districts to its 41 existing districts—more than twice as many, in a five-year period, as it had created over the previous 14 years.[7]

As Chicago's use of TIF districts expanded, those districts began to account for a larger and larger slice of the city budget. At present, 30 percent of Chicago's taxable land is contained within TIF districts, and 10 percent of the city's property tax revenue flows into TIF districts. That revenue amounts, at present, to approximately $500 million every year.[8]

While those $500 million come from the same source as the other 90 percent of the city's property tax income, they are treated as a separate stream of money operating under separate rules. Ordinary tax revenue follows a fairly straightforward path through Chicago's government, first flowing into the city's general fund. Money in that fund is spent according to the city's budget, which is drawn up by the mayor and amended and approved by the City Council. The budget is openly debated and made available to the public.

TIF revenue, on the other hand, flows to a separate fund for which no overall spending plan is published or debated. In some cases—such as investments in streetscapes or parks—the mayor's office has the ability to spend TIF revenue without seeking approval from the City Council.[9] Other expenditures, such as providing financial assistance to private developers, require approval from the City Council and a board appointed by the mayor.[10] Because the City Council never considers or approves a comprehensive TIF budget, there is no forum for debate over how the TIF program fits into the city's overall development strategy.[11]

The reduced transparency and accountability of TIF spending open the door to abuses that the rules governing run-of-the-mill public spending are designed to prevent. Open bidding for contracts, public hearings, and rules requiring careful record-keeping and open public access to those records were created to ensure that the public can monitor how their tax dollars are spent and hold public officials accountable. Chicago's TIF program has few of these core protections against waste and abuse.

Chicago's TIF program has several problems, often linked with one other. TIF is too widely used, insufficiently transparent, insufficiently democratic, and lacking mechanisms to hold its beneficiaries accountable. By correcting these flaws, Chicago can return its TIF program to its original purpose—providing needed development funds in narrowly targeted circumstances.

TIF Has Captured Revenue That Would Otherwise Have Gone to Other City Priorities

Part of the attraction of TIF as a development tool is that the revenue spent through TIF districts is perceived to be "free money"—revenue that would never have been raised in the first place had the TIF district not prompted growth in the area. That premise breaks down, however, if some or all of the revenue captured by a TIF district would have existed even if the district had never been created.

Property values in a TIF district can rise for several reasons:

- Inflation can drive up nominal property values, whether or not the area is experiencing real value appreciation. Between 1986 and 2005, local governments in Cook County lost $700 million of revenue captured by TIF because of inflation—$300 million to districts in Chicago alone.[17]

- "Natural growth" is the increase in property values that would have taken place without the creation of a TIF district. While it may be hard to identify precisely what portion of a district's growth is attributable to natural growth, one can estimate it by, for instance, looking at the growth rate in the area before the TIF district was created.

- Investments made with TIF funds can spark economic development that leads to higher property values in the district.

Each of these sources of growth increases the amount of property tax revenue generated inside the TIF district, but only the third is linked to the investments made with TIF financing. In other words, TIF can divert tax revenue that would otherwise have flowed to parks, schools and other municipal services to support private development instead.[18]

In Chicago, studies have suggested that TIF districts have captured revenue resulting from natural growth. In 2002, in the midst of the flurry of TIF district creation that accompanied the Daley administration's embrace of the TIF mechanism, a coalition of Chicago community groups undertook a study that suggested many of Chicago's TIF districts were capturing more of their revenue from pre-existing growth than from development prompted by TIF spending.

The Neighborhood Capital Budget Group (NCBG), a coalition of community

Case Study: The Central Loop TIF District

Chicago's first TIF district, created in 1984, offers a window into the problems with the way the city currently handles TIF revenue. The Central Loop TIF District was created at the request of Mayor Harold Washington, who was worried that shoppers were developing negative impressions of the downtown business district, threatening the economic vitality of the central city. As initially designed, the district included a block of downtown land—known as "Block 37," and bounded by Washington, State, Randolph, and Dearborn streets—that the city intended to redevelop to bring in new businesses.[12]

In 1997, with redevelopment of Block 37 still incomplete, Mayor Daley requested, and the City Council approved, an expansion of the district to include more of the northern Loop area. As property values in the district rose, the Central Loop TIF account took in larger sums year after year—to the point where annual receipts in the mid-2000s reached over $100 million a year, close to 20 percent of the city's total annual TIF revenue.

With the district due to expire in 2008, returning its annual revenues and any unspent money remaining in the district's accounts to the city's general fund, along with the county, schools, and other recipients of taxes from the area, Mayor Daley began lobbying for a 12-year extension of the district's life, which the state legislature can grant to any TIF district.[13] The administration hoped that further revenue from the TIF district could provide funds towards hosting the 2016 Olympics, among other endeavors. Faced with opposition from the governor's office, however, Mayor Daley consented to let the district expire.[14]

The district's expiration promised to return a large amount of money to the overlapping tax districts that had lost revenue from the Central Loop. Schools, parks, and the county, among others, stood to receive their shares of the $358 million the district had in 2008 ($255 million in its accounts at the beginning of the year, and $103 million in new income over the course of the year)—less, of course, whatever funds were spent during the remainder of 2008. At the beginning of the year, about $100 million of the district's remaining money was already allocated, leaving close to $250 million to potentially return to other local government bodies.

At the end of the year, however, none of that accumulated revenue reached the schools and other potential recipients. Over the course of 2008, the Daley administration spent not only all the remaining money in the Central Loop District's account, but also close to $3 million from neighboring districts, in a final burst of activity. Money went to politically connected developers and allies of the Daley administration. In total, more than 30 percent of the money the Central Loop district raised in its 24-year lifetime went out the door in the final 12 months.[15] ($1.2 million eventually did find its way to schools and other recipients, when a partial audit of the district's activities in the mid-2000s turned up a bank account containing unspent revenue.[16])

organizations, examined 36 Chicago TIF districts with the aim of separating the impacts of TIF district investments from the impacts of factors like inflation and a growing economy—factors that would exist with or without TIF districts. To separate this "natural growth" from new growth induced by TIF investments, the NCBG projected forward the rate of growth that existed in the TIF districts before TIF legislation was enacted, and compared the results that would have taken place had growth continued at that rate to the eventual results if growth took place at the pace achieved under the TIF regime.

Over the 23-year lifetime of the 36 TIF districts, the NCBG found that rising property values under the TIF regime would increase total tax receipts by a cumulative $1.6 billion—revenue that would flow into TIF districts to pay for development spending in the area. Without the TIF districts, though, revenue would have increased by $1.3 billion—and would have gone directly to schools and other public functions. In other words, local governments had given up $1.3 billion dollars ($631 million from the schools alone) in revenue they would have received, resulting in only a mild increase in property values when the districts finally expired after 23 years. TIF spending was redirecting money away from other public purposes and towards subsidizing growth that (for the most part) would have taken place anyway.[19]

The fact that TIF allows the city to capture revenue that would have otherwise gone to other local tax districts sets up a potential conflict between the interests of the city and other local governments. Studies on why local governments adopt TIF have pointed to the potential to capture revenue from overlapping tax districts as one potential incentive for governments to turn to the mechanism; in several cases, conflicts between TIF-using municipalities and the overlapping tax districts losing revenue to TIF have resulted in lawsuits.[20] So long as Chicago continues to set the baseline tax value for TIF districts in such a way that the inflationary and natural growth increments flow into TIF district coffers, the potential for revenue diversion from overlapping tax districts will remain.

Chicago Has Created Too Many TIF Districts, and Kept Them Open Too Long

The ideal outcome of a TIF district is that a jolt of investment sparks new economic activity in a stagnant area, creating economic activity that benefits the broader community and increases the value of land within the district when its full value returns to the tax rolls. Poorly targeted use of TIF, however, can actually produce the opposite effect—sucking further investment out of economically challenged areas to concentrate growth in areas already attractive to developers. In addition, without strong targeting rules to limit the situations in which TIF can be used, it becomes yet another tool in the arsenal of municipalities locked in mutually destructive competitions to attract new economic activity and jobs.

In Illinois, municipalities are required to assert that a targeted area is "blighted" and in need of redevelopment support before creating a TIF district.[21] Such claims are difficult to disprove, however, and this requirement has not allayed concerns that TIF districts are being created where they are not needed. Anecdotally, the presence of TIF districts in the city's thriving downtown—the LaSalle Central TIF District, for instance, is centered on the financial district—suggests TIF is being used in areas that few people would describe as "blighted."

In addition to creating TIF districts in inappropriate places, Chicago has also frequently allowed TIF districts to remain in operation—diverting revenue from other public services—long after their original missions have been accomplished. TIF districts are approved in the context of a specific redevelopment plan, which calls for spending set amounts of money on certain types of projects. In practice, districts have been able to linger and experience "mission creep," as revenue is spent on purposes not contemplated in the original redevelopment plan. For instance, the Daley administration made plans to transfer $38 million from one district in the South Loop to build a transit station and high school outside the district.[22]

Creating or maintaining unnecessary TIF districts is particularly problematic in light of the evidence that TIF districts promote growth inside the district boundaries at the expense of slowing growth elsewhere in a city. A 1999 University of Illinois study of Cook County and the collar counties found that the value of properties outside of TIF districts in towns that used TIF grew at a significantly slower rate than property values in similar towns that did not use TIF.[23] This research suggests that TIF subsidies redirect growth within a community at a cost to areas outside TIF districts, raising the stakes of the decision of whether to create such districts.

Chicago's TIF Process Is Not Transparent or Democratic Enough

The creation of a TIF district is a decision with long-term implications for a jurisdiction and its residents. It is important, therefore, that residents have access to clear, accurate information with which to evaluate TIF proposals and the ability to make their voices heard. Democratic control involves providing full information about proposed districts and projects to voters, holding public hearings, and requiring City Council approval for the creation and amendment of redevelopment plans.

Public control over public spending is a vital principle of good government—all the more so when the spending in question comes in the form of subsidies to private developers. Unfortunately, Chicago's TIF budget lacks basic transparency, and is shielded from full review even by the City Council, not to mention members of the public. The City Council votes on the creation of TIF districts, and the city has to present its plans to the public and a Joint Review Board of representatives from the other tax districts affected when it creates a district or significantly alters a redevelopment plan, but a large portion of TIF district operations take place beyond scrutiny from the public or even the City Council. For instance, the mayor's office can initiate public infrastructure investments in TIF districts without any outside input at all (see page 8).

This absence of City Council control removes a critical check on fraud and abuse in the awarding of contracts, as well as freeing these investments from the sort of cost-benefit scrutiny that ordinary public spending receives. Even in the case of private development projects, where the City Council does have to approve a project before it can go forward, the fact that only the mayor's office has the ability to initiate projects (without reference to any overall budget or plan) creates the potential for TIF spending to be used as a reward for political allies.

While subsidies to private developers are approved one-by-one in the City Council, the council never examines the TIF budget as a whole, since that budget has historically been kept secret by the mayor's office. Under the Daley administration, individual aldermen were allowed to view the budgets for TIF spending within their districts, but the overall plan for the entire city was not published.[24]

This sort of sealed budget and planning process creates the opportunity to use public money to reward political allies. Several aldermen interviewed by the *Chicago Reader* with regard to the TIF budget indicated that TIF revenue—which could either be awarded to or withheld from projects in their districts—was used as a lever on key votes by Mayor Daley's office.[25] This kind of dealing is possible because the City Council does not have the opportunity to view, amend, and approve an overall TIF budget, giving the mayor's office an effective veto power—the freedom to only initiate projects that have the mayor's support.

Similarly, the Chicago Inspector General's office recently found that the city had used the public benefits clauses (under which subsidy recipients agree to make contributions to public programs or charities) of various TIF agreements to channel funds to particular non-profits, without using clear criteria to determine which non-profits received such benefits. The largest recipient of public benefit agreement funds between 2000 and 2009 was After School Matters, a charity founded by Mayor Daley's wife, which received funds from 59 percent of the agreements that directed money to private nonprofits.[26]

Flaws in the transparency of Chicago's TIF process extend past the authorization of TIF districts and projects. The city has also historically failed to publish information on how TIF money has been spent, and what benefits the city has received, in a form that voters can digest. A TIF transparency law passed by the City Council in 2009 required the city to post more information on line, but the data made available to date have been insufficient. As documented in Illinois PIRG's recent report, *Shining a Light on Tax Increment Financing in Chicago*, the city has so far failed to provide sufficient data on how money is spent and what results are obtained, or to make its website readily accessible and searchable so that members of the public can make best use of it.[27] Without those tools, too much of Chicago's TIF activity will continue to take place out of the public eye.

Chicago's TIF Process Lacks Well-Enforced Protections for Taxpayers

Tax-increment financing provides potentially lucrative subsidies that benefit developers. Cities frequently plan TIF districts with a specific developer in mind; when they do not, specific developers are eventually selected for the projects.

In return for the benefits they receive, developers need to commit to delivering on specific goals, and, at minimum, provide regular reports on their progress towards meeting the goals of the TIF district. Contracts signed with subsidy recipients should require them to pay back part of their subsidy if they fail to deliver the promised benefits.

Chicago has at times used such contract provisions, but in at least some cases they have lacked sufficient strength and enforceability. In 2009, for instance, when the Republic Window and Door factory on Goose Island closed down, setting off a high profile battle between laid-off workers and the company, the city lost jobs that were promised in a TIF deal.

Between 1996 and 2000, Chicago paid out over $9 million in subsidies to Republic (the total cost to the city budget, including interest, came to $10.4 million) to help construct its Goose Island factory. As part of the deal Republic signed to earn that subsidy, the company promised to "use commercially reasonable best efforts" to maintain 549 jobs at the facility through the end of the TIF agreement—in 2019.[28]

Transparency 2.0

In recent years, governments around the United States and around the world have embraced "Transparency 2.0"—a new standard of comprehensive, one-stop, one-click budget accessibility and accountability. Cities and states that have adopted Transparency 2.0 principles have developed transparency websites that enable citizens to find government spending information that is:

- **Comprehensive**—including all the various ways governments spend money, including the provision of subsidies to private actors.

- **One-stop**—aggregating all information on government spending into a single website.

- **One-click**—providing searchable, downloadable information that can be accessed by citizens without requiring a pre-existing knowledge of budgetary nomenclature or bureaucratic structure.

At minimum, jurisdictions with TIF programs should create websites that provide key information about TIF that meets the standards of Transparency 2.0. Ideally, information on TIF revenue and spending should be included in a transparency website that includes all aspects of municipal spending.

With regard to TIF districts, governments should:

- Provide budget information about all TIF districts in a city, school district, or state, and about each individual TIF district, accessible online.

- Provide information on each TIF district, including:
    - The overall goals of the TIF district;
    - The specific benefits (in terms of jobs or other measures) it is expected to produce;
    - The most current information on what benefits have been produced to date;
    - The identities of all recipients of TIF funds, and the amount of money received by each;
    - Regular reports on the progress of the project.

- Ensure that funds raised through TIF districts are covered by at least the same transparency requirements that apply to ordinary municipal spending.

- Track all city spending in TIF districts, including not only direct outlays, but also subsidies provided in the form of selling land at below market value, allowing delayed repayment on loans, or issuing loans at favorable rates.

Though Republic clearly failed to meet that benchmark, the company paid no penalty. The TIF agreement had included a clawback provision if the company fell below the agreed-upon jobs target, but it only applied through 2006. Even before 2006, however, Republic may have been short of its target; union organizers reported fewer than 500 workers at the site in 2004, although a nonprofit working with the city counted 750 in 2006.[29] Whether or not Republic was meeting the terms of its contract, the city was not keeping track; when the *Chicago Reader* obtained documents relating to the TIF district via a Freedom of Information Act request, it turned out that Republic had filed its mandatory annual reports on the TIF project for only 5 of the 10 years it did business at Goose Island.[30]

Reclaiming taxpayer money from failed TIF projects is difficult under the best of circumstances, but stronger protections—especially clear and unambiguous statements of what standards will be used to measure the success of subsidized development projects, and what penalties will be paid for failing to meet those standards—offer the public the best possible insurance against losing money on failed TIF projects.

Chicago Is Moving in the Right Direction on TIF, But Needs to Do More

Since 2009, as concerned citizens and elected officials have questioned how Chicago manages its TIF program, the city has begun taking steps to reform the program. The two most important of these steps have been the adoption of the TIF Sunshine Ordinance, passed in April 2009, and the release of Mayor Emanuel's TIF reform panel's recommendations for the city.

The TIF Sunshine Ordinance Has Improved Transparency, But the Public Still Needs More Information

The TIF Sunshine Ordinance is intended to allow the public and elected officials outside the mayor's office to scrutinize the city's TIF spending by giving them access to documents that detail where and how the city is spending TIF revenue. The law requires the city to post online various documents pertaining to the creation, management and performance of TIF districts. Before the law's passage, citizens hoping to view these documents would have had to perform a time-consuming Freedom of Information Act request.[31] Simply making these documents available online is a marked improvement in transparency.

Chicago's TIF transparency still falls short of the mark, however. While citizens can see a broad overview of how each TIF district spent money through the districts' annual reports, they still lack the ability to review individual contracts, and information is presented in a format that makes it difficult to access and use. Additionally, some required documents have still not been posted on the city's website.[32]

In fact, an August 2011 analysis by Illinois PIRG found that only 30 percent of the city's TIF districts had Economic Disclosure Agreements—documents that any person or group seeking action from the City Council must fill out to reveal how they stand to benefit economically from the action—posted online for public viewing. Only 45 percent of districts had staff reports from the Community Development Commission posted. The TIF Sunshine Ordinance requires that

Illinois PIRG found that Chicago has not posted reports on the job creation and preservation impact of any of the TIF projects ongoing within the city—a necessary tool for citizens to evaluate the efficacy of TIF spending.

these documents be posted for every TIF district. Other documents not mentioned by the TIF Sunshine Ordinance are nonetheless vital to full public oversight of TIF activities, and should be posted for public review. Illinois PIRG found that Chicago has not posted reports on the job creation and preservation impact of any of the TIF projects ongoing within the city—a necessary tool for citizens to evaluate the efficacy of TIF spending.[33]

Using Chicago's TIF website, a resident can examine TIF districts near them and see which companies have received money from those districts through subsidies or contracts. One cannot, however, give the city's TIF spending the level of scrutiny made possible when governments adopt "Transparency 2.0" best practices (see page 15). In scrutinizing TIF spending, Chicago residents cannot yet:

- Look at the specific contracts the city signs with contractors.
- Use basic search functions to sift through large documents posted online (documents are posted as images, not text). Without a function of this sort, residents cannot, for instance, search for the name of a company to see where and when it has received subsidies.[34]

Without these features, Chicago's TIF website still fails to offer the level of transparency required for interested residents to monitor the city's TIF activities.

The Mayor's TIF Reform Panel Report Lays Out Sound Principles, but Will Need Follow-Through and Specifics

After taking office in 2011, Mayor Rahm Emanuel made reforming the city's TIF process one of his early priorities. To begin, he assigned a commission to review the city's use of TIF and propose reforms to the process. That commission returned its findings on August 23, 2011.

The commission proposed a series of improvements to the TIF process in Chicago. The key proposals in the report are as follows:

- **Establish an overall plan for TIF spending.** The commission called for the city to produce an Economic Development Plan, to be approved by the City Council, which would guide the city's use of TIF.
- **Consider TIF in the context of the overall budget.** The commission proposed bringing TIF spending back "on the books" by including TIF projects in an overall Capital Budget that would be considered and approved by the City Council.
- **Monitor performance.** The commission called for the creation of a standard set of metrics that the city should use to track the progress and measure the success of each TIF district and project.
- **Increase accountability.** The commission called for strengthening the "but for" test—the requirement that TIF revenue only be used to fund projects that would not take place without public support—for TIF projects, more overtly stating the rationale

for public funding of development projects, more closely monitoring projects to ensure that they meet their goals, and ensuring that public money can be reclaimed if development projects fail to deliver promised benefits.

- **Review performance regularly.** The commission proposed that the city should use the metrics established for measuring TIF district performance for regular reviews, which could lead to changing development strategies or closing the district if appropriate.

- **Enhance oversight and administration.** The commission called for the city to place authority over and responsibility for TIF spending in the hands of a government body with sufficient staff, resources, and authority to manage the TIF program properly.[35]

The Reform Panel's Proposals Would Broaden Control Over the Direction of the TIF Program

By tying citywide TIF spending to two documents that would be debated and approved by the City Council, the TIF Reform Panel's proposals would address one of the fundamental problems of Chicago's existing TIF program: the excessive degree of control wielded by the mayor's office over TIF spending.

In large part, concerns over patronage and misdealing in the TIF program stem from the fact that the mayor's office, with its broad discretionary power to propose TIF projects and direct funds to certain areas and away from others, can potentially use its decisions over how to spend TIF funds as a lever for political bargaining. Tying TIF spending to an overall city strategy for development and capital spending would involve the City Council in the process of allocating resources and laying out spending priorities—as it is for ordinary city spending.

Incorporating TIF spending in a citywide budgeting process would be an effective first step towards reducing the potential for abuse of Chicago's TIF process.

The Reform Panel's Proposals Would Make it Easier to Hold the City and Developers Accountable for Delivering on their Promises

One fundamental step a city can take towards increasing transparency and accountability is to provide citizens with the tools to judge whether a project is a success or failure. By requiring close tracking of how TIF districts and projects perform according to a wide range of metrics, and providing citizens and elected officials with the ability to compare that performance with initially stated goals, the TIF commission's proposals would make it much easier to hold both the city government and subsidy recipients accountable for delivering on their goals. Additionally, the reform panel called for increasing accountability in contracts, establishing when and how the city would be entitled to reclaim public money if companies did not deliver the benefits promised in subsidy agreements.

Ultimately, such provisions will only be as strong as their implementation. As seen above (see page 14), the city had the nominal authority and responsibility to track Republic Window and Door's performance on the terms of its TIF agreement, and to penalize Republic if it fell short of its obligations, but allowed Republic to go without even providing the basic documentation required in the agreement. Reports from subsidy recipients, and the results of the periodic reviews recommended by the reform panel, will need to be posted online so that members of the public can confirm that the city is fulfilling its responsibility to keep track of the results of TIF spending.

The Reform Panel's Proposals Could Reduce, but not Eliminate, Overuse of TIF

Illinois's TIF law requires that projects meet a "but for" test—that the investment would not be possible but for the financial support from the public. Such a provision speaks to the aspirations that first inspired TIF, but it is extremely difficult to enforce, since it involves speculating counterfactually about future economic performance in hypothetical situations where actual information is not verifiable and developers have strong incentives to exaggerate. Developers will always have an incentive to claim that public investment in their project is a necessity, and the city will have limited ability to objectively evaluate those claims.

The TIF reform panel called for changes to the city's process for evaluating proposed development projects that would make the "but for" test "a challenging hurdle to meet," and to publish its "but for" rationale publicly for every TIF district and project funded with TIF revenue, which would give outside groups and citizens the chance to scrutinize the claim.[36]

Such changes could indeed reduce the overuse of TIF, assuming that the city took sufficiently strong steps to toughen its internal review process for TIF projects. "But for" will always remain a difficult standard to enforce, however, and Chicago will need to approach any request for public funds with appropriate skepticism.

Chicago's TIF program currently allows TIF districts to undergo what might be called "mission creep"—continued spending beyond what was envisioned when the district was created, after the initial objectives of the district have been met. Instead of providing funding for an agreed-upon set of projects and then ceasing operations, districts can linger on, continuing to provide revenue for projects unrelated to their initial purpose. The kind of TIF abuse best represented by the Daley administration's attempt to extend the life of the Central Loop district so that its funds could be used to help pay for the cost of hosting the Olympics can only be stopped by holding TIF districts to their initial development plans.

Policy Recommendations

Chicago is moving in the right direction on management of its Tax-Increment Financing program, but it still has work to do to bring its program in line with best practices. In particular, the city needs to expand and improve its existing transparency measures, and go beyond the reform panel's recommendations to ensure that TIF is used only where it is appropriate. Chicago should:

- **Implement the TIF reform panel's recommendations.** The improvements recommended by the TIF reform panel would take Chicago a long way towards solving the problems with its TIF program. In particular, putting TIF spending back "on the books" by including it in budgets reviewed and passed by the City Council would reduce the problematic concentration of TIF-related spending authority in the mayor's office.

- **Make follow-through a priority.** In the past, the city has failed to take all the steps necessary to protect the public interest when issuing TIF subsidies—for instance, by failing to collect all the required reports from subsidy recipients. City leaders should make implementation of TIF reforms, and scrupulous adherence to transparency and monitoring requirements, a top priority.

- **Collect and publish performance data scrupulously.** The TIF reform panel's proposal to require reviews of every TIF district's performance every five years would be a step in the right direction, ensuring that every district would receive scrutiny on a regular basis. Over the shorter term, the public should have access to the schedule for publishing information about each TIF district, so that failure to publish such information on time would be immediately obvious. For shorter-term accountability, information about TIF districts should be made available according to a schedule, which would allow members of the public to track whether information was being collected appropriately. Subsidy recipients should be subject to penalties if they fail to report information to the city on time.

- **Use TIF only where it promises real benefits to the city.** TIF spending redirects growth within city borders, from areas outside of TIF districts to areas inside such districts (see page 13). Policymakers should be careful that they do not turn areas that are already economically healthy into TIF districts. By diverting even more activity towards those areas, and away from the rest of the city, using TIF in such circumstances exacerbates the problem of low growth in more troubled parts of the city.

- **Limit revenue collection from TIF districts to exclude growth in property values that would have happened anyway.** A few states, such as Minnesota, require tax receipts to overlapping districts in TIF districts to grow along with inflation, so that the TIF district does not divert away revenue from those other districts that would have otherwise increased from natural inflation.[37] A stronger measure would index the base land value of the district to pre-existing growth in the area, so that the TIF district truly captures only the incremental revenue resulting from TIF-funded investment.

- **Stick to the redevelopment plan for each TIF district, and close districts once they complete the projects initially planned.** Districts created with a specific rationale—providing funds to a certain set of development initiatives—should not continue diverting money from the general budget after those initiatives are completed. If a district is to continue with a new redevelopment plan, it should be reapproved through the same process required to create a district initially.

- **Avoid using TIF as a substitute for ordinary capital budgeting.** Chicago has at times used TIF for projects—such as its Modern Schools Initiative or construction of transit stations—that would fit more naturally into the overall capital budgets of the city, school district, or another local government body. City leaders should resist the temptation to concentrate such spending under the TIF budget, and instead handle ordinary capital needs through the processes designed for them.

- **Avoid accumulating large amounts of revenue in TIF accounts.** TIF is intended to jump-start growth with immediate investments, not to save up money for large-scale future expenditures. As such, TIF accounts should not be accumulating large amounts of revenue. When TIF districts raise more money than is needed to fulfill their development plans, that money should be declared surplus and returned to the general property tax pool. Money currently in TIF accounts that is not already committed to projects should be similarly returned, unless there is a clear and specific rationale, tied to the district's redevelopment plan, for keeping that money in the district's account.

- **Adopt "Transparency 2.0" best practices for TIF spending, and track information about outcomes**. Citizens should be able to track TIF spending through a website that is comprehensive, one-stop, and one-click searchable (see page 15). Details about each TIF district and project should be easily accessible—from initial proposals, to redevelopment plans for each district, to the specific contracts the city signs with subsidy recipients or service providers, to detailed data about the TIF district's performance. The city should moreover report each year on its compliance with these practices.

Notes

1 Chicago TIF Reform Panel, *Findings and Recommendations for Reforming the Use of Tax Increment Financing in Chicago: Creating Greater Efficiency, Transparency, and Accountability*, 23 August 2011.

2 More common in Chicago: See Note 1.

3 See Note 1.

4 City of Chicago, *Budget 2011: Overview and Revenue Estimates*, downloaded from www.chicityclerk.com/citycouncil/budget/2011/2011_Overview_and_Revenue_Estimates.pdf on 27 October 2011. Several smaller taxing districts also cover portions of the city.

5 See Note 1.

6 See Note 1.

7 Mike Quigley, Cook County Commissioner, *A Tale of Two Cities: Reinventing Tax Increment Financing*, April 2007.

8 See Note 1.

9 Ben Joravsky and Mick Dumke, "The Shadow Budget," *Chicago Reader*, 22 October 2009.

10 Ibid.

11 Ibid.

12 The following section is based primarily on Ben Joravsky, "Mr. Big Spender," *Chicago Reader*, 6 August 2009. Information from other sources is specifically footnoted throughout, while the bulk of the section is based on the aforementioned article.

13 "The TIF That Keeps on Taking," *Chicago Reader*, 5 June 2008.

14 Greg Hinz, "Daley Letting Huge Loop TIF Die," *Crain's Chicago Business*, 24 September 2008.

15 Based on total spending of approximately $1 billion between 1984 and 2008.

16 Ben Joravsky, "A TIF Under the Microscope: How to Interpret the Inspector General's Sample Audit of the Central Loop Honeypot," *Chicago Reader*, 15 July 2010.

17 See Note 1. Revenues can also rise sharply in a given year because assessments occur every three years, making it possible for a TIF district to be created on such a schedule as to maximize revenue by capturing several previous years of property value increases.

18 Rachel Weber and Laura Goddeeris, Lincoln Institute of Land Policy, *Tax Increment Financing: Process and Planning Issues*, 2007.

19 Patricia Nolan and Helene Berlin, Neighborhood Capital Budget Group, "NCBG's TIF Study Shows that TIF is Not Cost-Free" in *PRAGmatics*, Summer 2002.

20 Rachel Weber, Rebecca Hendrick, and Jeremy Thompson, "The Effect of Tax Increment Finance on School District Revenue: Regional Variation and Interjurisdictional Competition," *State and Local Government Review*, Vol. 40, No. 1 (2008), 27-41.

21 Illinois Tax Increment Association, *About TIF*, downloaded from www.illinois-tif.com/about_TIF.asp, 23 September 2011.

22 "It's Our Money" (editorial), *Chicago Tribune*, 9 November 2009.

23 Richard F. Dye and David F. Merriman, "The Effects of Tax Increment Financing on Economic Development", *Journal of Urban Economics*, September 1999.

24 See Note 9.

25 Ibid.

26 Office of the Inspector General, City of Chicago, *Report of the Inspector General's Office: TIF Public Benefits Clauses and Charitable Donations*, 4 October 2011.

27 Celeste Meiffren, Illinois PIRG, *Shining a Light On Tax Increment Financing in Chicago*, August 2011.

28 The initial agreement called for 610 employees; it was amended to 549 after the company missed that target in 1998 and 1999. Ben Joravsky and Mick Dumke, "Show Us the Money," *Chicago Reader*, 19 March 2009.

29 750: Mick Dumke, "Money for the Taking," *Chicago Reader*, 19 March 2009. 500: Ben Joravsky and Mick Dumke, "Show Us the Money," *Chicago Reader*, 19 March 2009.

30 Mick Dumke, "Money for the Taking," *Chicago Reader*, 19 March 2009.

31 See Note 27.

32 Ibid.

33 All information about quantity of documents posted is from Celeste Meiffren, Illinois PIRG, *Shining a Light On Tax Increment Financing in Chicago*, August 2011.

34 See Note 27.

35 See Note 1.

36 Ibid.

37 See Note 18.