

DISTRICT OF COLUMBIA OFFICE OF THE INSPECTOR GENERAL

OIG Project No. 20-1-02AT

December 2021



OFFICE OF THE CHIEF FINANCIAL OFFICER

The District Could Benefit from a Comprehensive Cost-Benefit Analysis of the Tax Abatement Program



Guiding Principles

*Workforce Engagement * Stakeholders Engagement * Process-oriented * Innovation
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Our mission is to independently audit, inspect, and investigate matters pertaining to the District of Columbia government in order to:

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- promote economy, efficiency, effectiveness, and accountability;
- inform stakeholders about issues relating to District programs and operations; and
- recommend and track the implementation of corrective actions.

Vision

Our vision is to be a world-class Office of the Inspector General that is customer-focused and sets the standard for oversight excellence!

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Excellence * Integrity * Respect * Creativity * Ownership
* Transparency * Empowerment * Courage * Passion
* Leadership





Executive Summary

The District Could Benefit from a Comprehensive Cost-Benefit Analysis of the Tax Abatement Program

WHY WE DID THIS AUDIT

The OIG identified this engagement to determine if tax abatements realized the intended benefits to the District. Under District law, tax abatements are granted by the D.C. Council through individual legislation, and District law requires the Office of the Chief Financial Officer (OCFO) to conduct the Tax Abatement Financial Analysis (TAFA) and provide the D.C. Council with an advisory opinion on whether the abatement or exemption is necessary. When providing its advisory opinion, OCFO is specifically required to consider the fiscal needs of the beneficiary, the financial feasibility of the proposed project, and/or the public policy objective of the abatement or exemption. According to OCFO, tax abatements are reductions of real property tax to provide financial incentives for interested parties that offer low-cost housing units, employment opportunities, or other legislatively approved community benefits.

OBJECTIVES

Our audit objectives were to: (1) assess OCFO's methodology for conducting a cost-benefit analysis of proposed tax abatements; and (2) assess the accuracy of this analysis in practice when applied to active projects.

WHAT WE FOUND

It has been a decade since D.C. Council enacted the law that requires OCFO to conduct the TAFA and provide the D.C. Council with an advisory opinion on whether the abatement or exemption is necessary.¹ However, the District has yet to perform a comprehensive cost-benefit analysis for the tax abatement program to obtain reasonable assurance that this policy is achieving its objectives by creating economic value² with projects that are in the best interest of the District. The District could benefit if OCFO adopts OMB Circular No. A-94 Revised – *Guidelines and Discount Rates for Benefit-cost Analysis of Federal Programs* to conduct prospective³ analysis of individual tax abatements

² For discussion purposes, economic value is measured as benefits exceeding the costs of the program.

³ According to GAO, prospective evaluation is a "systematic method for providing the best possible information on, among other things, the likely outcomes of proposed programs, proposed legislation, the adequacy of proposed regulations, or top-priority problems." U.S. GOV'T ACCOUNTABILITY OFFICE, PROSPECTIVE EVALUATION METHODS, THE PROSPECTIVE EVALUATION SYNTHESIS 1, GAO/PEMD-10.1.10 (Nov. 1990).

Executive Summary

and retrospective studies⁴ of individual tax abatements and the tax abatement program overall. Although the OMB guidelines apply to federal government agencies and programs, implementing these guidelines could benefit District policymakers and the public in assessing the value created by the tax abatement program.

Further, the design of OCFO's methods to analyze the individual tax abatement amount was reasonable, but the application of the designed methods, calculating and monitoring expected community benefits, and ensuring compliance with self-certification requirements needs improvement.

Specifically, we found that OCFO did not:

- Assess and validate the completeness and accuracy of the estimated cost of development and the operating cash flows for 4 of the 10 TAFAs we reviewed. Reviewing and verifying the information applicants submitted will enhance the quality of the information that policymakers and the public rely on to weigh costs and benefits related to tax abatement for a given project.
- Consider as part of its financial analysis the applicable economic value of the community benefits for the 10 TAFAs we reviewed. From November 2011 through FY 2019, OCFO completed 69 TAFAs, with an estimated \$539 million in tax abatements that required OCFO's consideration of the public policy objective of the abatement. Without considering the public objectives of the abatements (determined by measuring the applicable economic value to the District), OCFO cannot assure the \$539 million in tax abatements are in the District's best interest.
- Obtain one or more annual Exempt Property Use Reports or certifications for 4 of the 10 TAFAs. According to D.C. Code § 47-4702(b), "[f]ailure to certify that the property was still eligible for the . . . abatement based on the use of the property . . . shall result in a termination of the abatement as of the beginning of the tax year in which the report is required to be filed." The four projects in question were still receiving tax abatements as of 2019, despite the lack of compliance. Without annual certifications, the District does not have assurance that tax abatement recipients remain eligible for the abatement and that recipients are providing promised community benefits to the District.

⁴ According to OMB, retrospective studies are conducted to determine whether a program's anticipated benefits and costs have been realized.

Executive Summary

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WHAT WE RECOMMEND

The OIG made 12 recommendations to OCFO to help improve its TAFAs methodology and review process. These recommendations will better assist OCFO in evaluating proposed tax abatements and developing TAFAs for legislative review.

MANAGEMENT RESPONSE

OCFO agreed with 3 recommendations, agreed in part with 1 recommendation, and disagreed with 8 recommendations.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



December 3, 2021

Fitzroy Lee
Interim Chief Financial Officer
Office of the Chief Financial Officer
1350 Pennsylvania Avenue, N.W., Suite 203
Washington, D.C. 20004

Dear Interim Chief Financial Officer Lee:

Enclosed is our final report, *The District Could Benefit from a Comprehensive Cost-Benefit Analysis of the Tax Abatement Program* (OIG Project No. 20-1-02AT). The audit was included in our *Fiscal Year (FY) 2020 Audit and Inspection Plan*. Our audit objectives were to: (1) assess OCFO's methodology for conducting a cost-benefit analysis of proposed tax abatements; and (2) assess the accuracy of this analysis in practice when applied to active projects. We conducted this audit in accordance with generally accepted government auditing standards (GAGAS).

We provided the Office of the Chief Financial Officer (OCFO) with our draft report on September 16, 2021 and received its response on October 29, 2021. We appreciate that OCFO officials began addressing some of the findings immediately upon notification during the audit.

Our draft report included 12 recommendations we made to OCFO for actions we deemed necessary to correct identified deficiencies. OCFO agreed with Recommendations 10, 11, and 12. Therefore, we consider these recommendations resolved but open pending evidence of stated actions. OCFO did not fully agree with Recommendation 9, but OCFO actions taken and/or planned are responsive and meet the recommendation's intent. Therefore, we consider this recommendation resolved but open pending evidence of stated actions.

Although OCFO disagreed with Recommendations 5 and 7, OCFO actions taken and/or planned are responsive and meet the recommendations intent. Therefore, we consider these recommendations resolved but open pending evidence of stated actions. OCFO also disagreed with Recommendations 1, 2, 3, 4, 6, and 8. We consider these recommendations open and unresolved. Therefore, we request that OCFO reconsider its position and provide additional responses to these Recommendations within 30 days of the date of this final report. OCFO should consider the intent of these recommendations in the context of (a) its overall mission of enhancing the "the fiscal and financial stability, accountability and integrity of the Government of the District of Columbia" and (b) its responsibility of "providing advice on economic development matters," as fully described in the background section of this report.

During the audit, we received OCFO's views on our findings, recommendations, and conclusions in writing. We incorporated OCFO's views in our draft report if supported by sufficient and appropriate evidence. OCFO's October 29, 2021, response did not provide additional evidence to support its disagreements. Based on OCFO's response, we re-examined our facts and conclusions and determined that the draft report is fairly presented. OCFO's responses to the draft report are included in their entirety at Appendix D.

We appreciate the cooperation and courtesies extended to our staff during this audit. If you have any questions concerning this report, please contact me or Fekede Gindaba, Assistant Inspector General for Audits, at (202) 727-9770.

Sincerely,

A handwritten signature in blue ink, appearing to read "DWL", followed by a horizontal line and a small flourish.

Daniel W. Lucas
Inspector General

DWL/bh

Enclosure

cc: See Distribution List

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TABLE OF CONTENTS

	Page
BACKGROUND	1
FINDINGS	3
The District Could Benefit From a Comprehensive Cost-Benefit Analysis of the Tax Abatement Program	3
OMB Requirements for Conducting Prospective Analysis	4
OMB Requirements for Conducting Retrospective Studies	6
OCFO’s Methods for Calculating the Cost of Tax Abatement.....	7
OCFO Did Not Always Consider the Financial Feasibility of the Proposed Project when Providing D.C. Council with an Advisory Opinion	8
OCFO Did Not Always Consider the Fiscal Needs of the Beneficiary when Providing D.C. Council with an Advisory Opinion.....	9
OCFO Did Not Always Consider the Public Policy Objective of the Abatement when Providing D.C. Council with an Advisory Opinion	9
OCFO’s Conclusion on Tax Abatements Did Not Always Conform with its Decision Techniques	10
OCFO Did Not Obtain Self-Certifications as Required.....	11
CONCLUSION.....	12
AGENCY RESPONSE AND OFFICE OF THE INSPECTOR GENERAL COMMENTS.....	13
ACTIONS REQUIRED	13
APPENDICES	14
Appendix A. Objectives, Scope, and Methodology	14
Appendix B. Acronyms and Abbreviations	15
Appendix C. Table of Recommendations	16
Appendix D. OCFO Response to the Draft Report.....	18

BACKGROUND

OCFO's mission is "to enhance the fiscal and financial stability, accountability and integrity of the Government of the District of Columbia."⁵ OCFO describes its responsibilities to include, among others:

- the financial and budgetary functions of the District government;
- administering and enforcing the District's tax laws, and collecting revenue for the city; and
- developing fiscal impact statements for proposed legislation, performing tax expenditure analysis, and providing advice on economic development matters.⁶

OCFO is also responsible for providing the D.C. Council with an advisory opinion on proposed legislation for real property tax abatement. Under District law, tax abatements are granted by the D.C. Council through individual legislation, and the law requires that OCFO:

[P]rovide [D.C.] Council with an advisory opinion on whether or not the abatement or exemption is necessary. Depending on the type of abatement or exemption, the OCFO shall consider the fiscal needs of the beneficiary, the financial feasibility of the proposed project, and/or the public policy objective of the abatement or exemption.⁷

In 2011, the D.C. Council enacted the Exemptions and Abatements Information Requirements Act of 2011, which amended Title 47 of the D.C. Code "to establish compliance requirements for an act introduced in the D.C. Council that grants an exemption or abatement of ... taxes and to require an annual certification by taxpayers for continued receipt of an exemption or abatement from real property taxation."⁸ The D.C. Council further amended Title 47 in 2013 with enactment of the Tax Abatement Financial Analysis [TAFA] Requirements Act of 2013 to clarify that the TAFA requirement did not apply to exemptions or abatements of general applicability.⁹ The act also clarified the analysis that would be required for abatements or exemptions related to a specific individual or entity, and those related to a category or group of property owners or taxpayers.¹⁰

⁵ OCFO website, <https://cfo.dc.gov/page/about-ocfo> (last visited Aug. 26, 2021).

⁶ *Id.*

⁷ D.C. OFFICE OF THE CHIEF FINANCIAL OFFICER, SUBMISSION REQUIREMENTS FOR PARTIES SEEKING A TAX ABATEMENT EXEMPTION, <https://cfo.dc.gov/node/552772>.

⁸ Fiscal Year 2012 Budget Support Act of 2011, D.C. Law 19-0021 (codified as amended at D.C. Code §§ 47-4701 – 4704 (Lexis current through permanent laws effective as of Apr. 4, 2021)).

⁹ Fiscal Year 2014 Budget Support Act of 2013, D.C. Law 20-0061, Sec. 7162 (codified as amended at D.C. Code § 47-4701 (Lexis current through permanent laws effective as of Apr. 4, 2021)).

¹⁰ *Id.*

OCFO's Tax Abatement Financial Analysis Process.

The TAFA process begins when the Office of Economic Development Finance (EDF), within OCFO, receives a request from the D.C. Council along with draft legislation. To compile additional information, the EDF team then coordinates with the applicant, the Office of Revenue Analysis (ORA), and the Real Property Tax Administration (RPTA), both of which are also housed within OCFO.

Tax abatement applicant responsibilities. The EDF team directly contacts the applicant to obtain the following minimum information:

1. Description of the property or development project, including use or expected uses, purchase timing if applicable, total development cost if applicable, and gross and net square footage of the building.
2. A summary of the proposed community benefits to be provided by the abatement.
3. The property information including address, square, lot, and boundary.
4. Evidence of site control.
5. Description of proposed project's ownership and structure.
6. A copy of the requesting organization's financial statements for each of the previous three years and any pertinent management reports from the same period.
7. Audited income and expenses or projections if actuals are not available.
8. A financial pro forma of the project detailing debt, equity, detailed project cost estimates and all associated cash flows including projected real property and other taxes or savings from the proposed tax exemption or abatement.

ORA responsibilities. The EDF team directly contacts the ORA team to obtain the Fiscal Impact Statement (FIS). The FIS is a budgeting tool that provides an analysis of the expenditure and revenue impact of proposed legislation on the District's current budget and 4-year financial plan.

RPTA responsibilities. The EDF team directly contacts the RPTA team to obtain the applicant's current property's assessed value, tax bills, past property tax data and payments, and projected property tax rate. When a tax abatement bill becomes law, RPTA is also responsible for overseeing the property owner's annual filing of an Exempt Property Use Report to support the continuing applicability of the abatement.

The OIG assessed the D.C. Code requirements and OCFO's TAFA process described above to address the audit objectives.

Audit Objectives

The objectives of this audit were to: (1) assess OCFO's methodology for conducting a cost-benefit analysis of proposed tax abatements; and (2) assess the accuracy of this analysis in practice when applied to active projects. Our audit focused on tax abatements granted by D.C.

Council, which are subject to the TAFE requirements under Title 47 D.C. Code, Chapter 47.¹¹ The audit was included in the Office of the Inspector General's *FY 2020 Audit and Inspection Plan*. We conducted our audit from December 2019 to August 2021. Due to the COVID-19 Public Health Emergency, we suspended this audit from April 2020 through August 2020. We conducted this audit in accordance with generally accepted government auditing standards (GAGAS).

We used OMB Circular No. A-94 Revised – Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs as a best practice to assess the effectiveness of OCFO's TAFE policies and procedures and OCFO's methods used to conduct analysis of proposed tax abatements. According to OMB,

[t]he goal of this Circular is to promote efficient resource allocation through well-informed decision-making by the Federal Government. It provides general guidance for conducting benefit-cost and cost-effectiveness analyses. It also provides specific guidance on the discount rates to be used in evaluating Federal programs whose benefits and costs are distributed over time. The general guidance will serve as a checklist of whether an agency has considered and properly dealt with all the elements for sound benefit-cost and cost-effectiveness analyses.

Although the OMB guidelines apply to federal government agencies and programs, implementing the guidelines could benefit District policymakers and the public in assessing the value created by the tax abatement program.

FINDINGS

The District Could Benefit From a Comprehensive Cost-Benefit Analysis of the Tax Abatement Program

It has been a decade since the D.C. Council enacted the law that requires OCFO to conduct the TAFE.¹² However, the District has not conducted a comprehensive cost-benefit analysis for the tax abatement program to obtain reasonable assurance that the policy is achieving its objectives by creating economic value¹³ with projects that are in the best interest of the District. The District could benefit if OCFO adopts OMB Circular No. A-94 Revised – *Guidelines and Discount Rates for Benefit-cost Analysis of Federal Programs* to conduct prospective analysis of individual tax abatements and retrospective studies of individual tax abatements and the tax abatement program overall.

¹¹ Between October 1, 2011, when Title 47 D.C. Code, Chapter 47 took effect, and April 2020, OCFO provided the D.C. Council 69 TAFE advisory opinions related to tax abatements collectively valued at \$539 million. The OIG selected 10 of the 69 TAFAs for detailed review.

¹² D.C. Law 19-0021 *supra* note 1.

¹³ For discussion purposes, economic value is measured as benefits exceeding the costs of the program.

OMB Requirements for Conducting Prospective Analysis

OMB provides requirements for calculating net present value (NPV), developing discount rate policy, and performing sensitivity analysis when evaluating programs whose benefits and costs are distributed over time. The District could benefit if OCFO adopts these requirements to conduct prospective analysis of individual tax abatement requests. Below we discuss each of these requirements.

OMB requirements to calculate net present value for a government program.

OMB Circular No. A-94 Revised,¹⁴ Section 5(a) states:

Net Present Value and Related Outcome Measures [ROM]. The standard criterion for deciding whether a government program can be justified on economic principles is net present value -- the discounted monetized value of expected net benefits (i.e., benefits minus costs). Net present value is computed by assigning monetary values to benefits and costs, discounting future benefits and costs using an appropriate discount rate, and subtracting the sum total of discounted costs from the sum total of discounted benefits. Discounting benefits and costs transforms gains and losses occurring in different time periods to a common unit of measurement. Programs with positive net present value increase social resources and are generally preferred. Programs with negative net present value should generally be avoided.

This is the preferred or best practice method to evaluate individual tax abatement projects as found in OMB Circular A-94 *Guidelines and Discount Rates for Benefit-cost Analysis of Federal Programs*, Section 5. Although preferred, OCFO has not used the NPV method for any of the new developments or existing buildings we reviewed. In some cases, and as part of the application process, the applicant submitted the project's internal rate of return (IRR)¹⁵ along with projected cash flows and underlying assumptions. Although, OCFO relied on the IRR to opine whether tax abatements were necessary, according to OMB, the IRR is not a preferred method because a given project may result in multiple IRR values.¹⁶

¹⁴ Section 5, General Principles, states: "*Benefit-cost analysis* is recommended as the technique to use in a formal economic analysis of government programs or projects."

¹⁵ According to OMB Circular No. A-94, Section 8(b)(2), the IRR is the discount rate that sets the net present value of the program or project to zero or the rate at which a project will recover its costs.

¹⁶ As set forth in OMB Circular No. A-94, Section 8(b)(2): "The internal rate of return is the discount rate that sets the net present value of the program or project to zero. While the internal rate of return does not generally provide an acceptable decision criterion, it does provide useful information, particularly when budgets are constrained or there is uncertainty about the appropriate discount rate." OMB specifically defines internal rate of return as "[t]he discount rate that sets the net present value of the stream of net benefits equal to zero. The internal rate of return may have multiple values when the stream of net benefits alternates from negative to positive more than once." *Id.* at app. A.

Analyzing the proposed tax abatement's impact on a new development or existing building in terms of net present value will allow policymakers and the public to compare the abatement's cost against the corresponding financial value of community benefits to ensure decision-makers select projects that are in the best interest of the District.

OMB requirements to develop a discount rate policy to calculate NPV for a government program.

OMB Circular No. A-94 Revised, Section 8(a) states:

Discount Rate Policy. In order to compute net present value, it is necessary to discount future benefits and costs. This discounting reflects the time value of money. Benefits and costs are worth more if they are experienced sooner. All future benefits and costs, including nonmonetized benefits and costs, should be discounted. The higher the discount rate, the lower is the present value of future cash flows. For typical investments, with costs concentrated in early periods and benefits following in later periods, raising the discount rate tends to reduce the net present value.

We found no policy that governed calculating discount rates. OCFO sometimes used the weighted average cost of capital (WACC)¹⁷ method as the discount rate to calculate the present value of tax abatements but used a capitalization rate to calculate the present value of net operating income of proposed projects. WACC is widely used as the discount rate when evaluating all future benefits and costs.

Using two different discount rates may have distorted the financial analysis. Without a discount rate to discount all future benefits and costs, including non-monetized benefits and costs, OCFO cannot independently analyze and evaluate the applicant's financial condition. According to OCFO, different financial analyses are alternative ways to evaluate a proposed project and may require different discount rates. However, without a developed policy, OCFO officials do not have assurance that TAFAs are prepared in a consistent manner.

OMB requirements to perform a sensitivity analysis for a government program.

OMB Circular No. A-94 Revised, Section 9(c) states:

Sensitivity Analysis. [M]ajor assumptions should be varied and net present value and other outcomes recomputed to determine how sensitive outcomes are to changes in the assumptions. The assumptions that deserve the most attention will depend on the dominant benefit and cost elements and the areas of greatest uncertainty of the program being analyzed. For example, in analyzing a

¹⁷ For example, if the total capital needed to finance a project is \$100,000 and a developer intend to finance \$60,000 using debt with 8 percent interest, and the remaining \$40,000 using equity with a rate of return 15 percent, WACC is 10.8 percent or $((\$60,000 * 8 \text{ percent}) + (\$40,000 * 15 \text{ percent}) / \$100,000)$.

retirement program, one would consider changes in the number of beneficiaries, future wage growth, inflation, and the discount rate. In general, sensitivity analysis should be considered for estimates of: (i) benefits and costs; (ii) the discount rate; (iii) the general inflation rate; and (iv) distributional assumptions. Models used in the analysis should be well documented and, where possible, available to facilitate independent review.

The period covered in tax abatement applications' future periods ranged from 10 to 30 years. Future cash flows of initial project cost, operating income, and expenses were based on assumptions. Specifically, assumptions were included in the applications for inflation rates, interest rates, property tax rates, capitalization rates, property occupancy rates, and market rent prices. However, the District did not perform a sensitivity analysis to determine how sensitive the financial conditions of the applicants were to changes in the assumptions. OCFO officials acknowledged the value of a sensitivity analysis of the applicant's cash flow and (interconnected to that analysis) the expected value of the abatement but stated that such information in the TAFA for informational purposes could make findings less clear. However, understanding the sensitivity within the applicant's financial conditions would further meet the requirements in the TAFA law.¹⁸ Having the sensitivity analysis information within the TAFA would provide the D.C. Council insight on volatility and potential risk.

We recommend that the Interim Chief Financial Officer:

1. Develop or adopt a methodology such as OMB Circular No. A-94 Revised to conduct prospective analyses, including calculating net present value of tax abatement requests.
2. Develop or adopt a methodology such as OMB Circular No. A-94 Revised to conduct prospective analyses, including developing a discount rate policy.
3. Develop or adopt a methodology such as OMB Circular No. A-94 Revised to conduct prospective analyses, including performing a sensitivity analysis.

OMB Requirements for Conducting Retrospective Studies

OMB provides requirements for conducting verifications for anticipated benefits and costs of a program. The District could benefit if OCFO adopts these requirements to conduct retrospective studies of individual tax abatements and the tax abatement program overall.

¹⁸ D.C. Code § 47-4701(b)(1)(F) states that OCFO's financial analysis: "For [existing buildings, new developments, and exemptions or abatements related to a person or group of persons that can be readily identified], [shall consist of] a review and analysis of the financial condition of the recipient of the proposed exemption or abatement".

OMB Circular No. A-94 Revised, Section 5(c)(4) contains the elements of a Benefit-Cost analysis, which includes:

Verification. Retrospective studies to determine whether anticipated benefits and costs have been realized are potentially valuable. Such studies can be used to determine necessary corrections in existing programs, and to improve future estimates of benefits and costs in these programs or related ones. Agencies should have a plan for periodic, results-oriented evaluation of program effectiveness. They should also discuss the results of relevant evaluation studies when proposing reauthorizations or increased program funding.

For the last decade, D.C. Law 19-0021 has required OCFO to conduct the TAFE but OCFO has not performed retrospective studies of individual tax abatements or the overall tax abatement program to determine the accuracy of TAFE in practice when applied to complete or ongoing projects and make adjustments as needed. Such adjustment would include OCFO notification to the D.C. Council when the developer no longer needs tax abatement due to improved financial conditions. According to OCFO officials, EDF is not required to revisit projects after TAFAs are complete. However, retrospective studies would provide important information to the D.C. Council, OCFO, and District residents about both existing tax abatements and those it considers granting in the future.

We recommend that the Interim Chief Financial Officer:

4. Develop a plan for conducting a periodic retrospective cost-benefit analysis of individual tax abatements and the tax abatement program overall to obtain reasonable assurance that the program created economic value for the District.

The subsequent sections of this report discuss our findings, recommendations, and conclusions regarding OCFO's methods, considerations of the fiscal needs of the beneficiary, the financial feasibility of the proposed project, the public policy objective of the abatement and obtaining and enforcing self-certifications involving individual TAFAs.

OCFO's Methods for Calculating the Cost of Tax Abatement

OCFO developed distinct methods for conducting TAFAs for existing buildings and for new developments. For existing buildings, OCFO designed a three-step process to review and analyze the annual tax abatement amount. First, OCFO uses the value of the properties in the District's property tax assessment database to determine the historical value of the properties and applicable property tax rates. Second, OCFO applies the District's forecasted annual property value appreciation rate¹⁹ to the historical value to determine future yearly property values. Lastly, OCFO calculates the proposed annual tax abatement by multiplying the property's future value times the applicable property tax rate.²⁰

¹⁹ This is the expected increase in real estate values used in preparing the District's revenue estimates.

²⁰ D.C. Code § 47-812(a) states: "The [D.C.]Council, after public hearing, shall by October 15 of each year establish, by act, rates of taxation, by class, as provided in § [47-813](#), and the rates shall be applied, during the tax

For tax abatements involving new developments, OCFO uses as a basis the total development cost from the project development budget provided to OCFO by the tax abatement applicant or sponsor. OCFO multiplies the budgeted total construction cost by the flat property tax rate to calculate the annual tax abatement amount during the construction period of the developments. Thereafter, OCFO uses as a basis the net operating income (NOI) of the development from the project development budget provided to OCFO by the tax abatement applicant or sponsor. OCFO then divides the NOI by the cap rate²¹ to determine the value of the developed property. Finally, OCFO multiplies the property value by the flat property tax rate to calculate the annual tax abatement amount.

OCFO Did Not Always Consider the Financial Feasibility of the Proposed Project when Providing D.C. Council with an Advisory Opinion

The OCFO policy and procedures manual, last updated in 2017,²² requires that policy analysts review the applicant's "pro forma [financial statements], if applicable, to make sure data is complete and spreadsheet calculations are correct and [analysts] may request additional information"²³ to verify the applicant's assumptions. However, in 4 of the 10 TAFAs we reviewed, OCFO did not independently assess and validate the completeness and accuracy of the estimated cost of development and the operating cash flows as required.²⁴ Additionally, although not required, OCFO does not conduct periodic comparison of the estimated information to the actual development cost and operating cash flows to validate the completeness and accuracy of the tax abatement requests.

When we asked the OCFO official whether training was provided for analysts responsible for conducting TAFAs, the official indicated no formal training has been provided. Without formal training and periodic comparison, OCFO cannot assure that it consistently considers the financial feasibility of proposed tax abatements as the D.C. Code requires.

We recommend that the Interim Chief Financial Officer:

5. Develop procedures to conduct periodic formal training for analysts responsible for performing TAFE.
6. Develop procedures to conduct periodic comparison of estimated cash flows to actual cash flows to consider the financial feasibility of proposed projects as the D.C. Code requires.

year, to the assessed value of all real property subject to taxation." The current property tax rate for Class 1 residential real property in the District of Columbia as established by the D.C. Council is 0.85 percent flat rate. OCFO website, <https://otr.cfo.dc.gov/page/real-property-tax-rates> (last visited June 21, 2021).

²¹ The cap rate that the District's property tax assessors used for similar commercial properties.

²² D.C. OFFICE OF THE CHIEF FINANCIAL OFFICER, ECONOMIC DEVELOPMENT FINANCE, POLICIES AND PROCEDURES MANUAL, EXHIBIT 1 (updated Dec. 19, 2017).

²³ *Id.* § 10.

²⁴ *Id.* § 11(b).

OCFO Did Not Always Consider the Fiscal Needs of the Beneficiary when Providing D.C. Council with an Advisory Opinion

According to District law, OCFO is required to consider the financial needs of a beneficiary when providing the D.C. Council with an advisory opinion on whether the abatement is necessary. Although OCFO adequately designed a process to analyze the annual financial needs of a beneficiary, OCFO did not use the process when analyzing 2 of the 10 tax abatement requests. Instead, OCFO included in its TAFAs report and opinion the amount proposed by the applicant or sponsor of the project without further analysis.

While we did not find supporting documentation for the two exceptions noted above, OCFO officials clarified that there might be other reasons why an evaluation of the amount in the proposed legislation was not performed. However, OCFO policy and procedures manual for writing TAFAs requires that “once the TAFAs is completed, the file should include ... completed TAFAs spreadsheets showing EDF financial analysis ... and any other materials necessary to review or support the TAFAs as drafted.”²⁵ Without documenting and maintaining analytical work performed when developing the TAFAs, OCFO cannot support its conclusions and recommendations.

We recommend that the Interim Chief Financial Officer:

7. Develop procedures to ensure the fiscal needs of the beneficiary are calculated, documented, maintained, and reported consistently.

OCFO Did Not Always Consider the Public Policy Objective of the Abatement when Providing D.C. Council with an Advisory Opinion

According to District law, OCFO is required to consider the public policy objective of the abatement when providing the D.C. Council with an advisory opinion on whether the abatement is necessary.²⁶ From November 2011 through FY 2019, OCFO completed 69 TAFAs, with an estimated \$539 million in tax abatements that required OCFO’s consideration of the public policy objective of the abatement. However, OCFO did not consider as part of its financial analysis the applicable economic value of the community benefits for any of the 10 TAFAs we reviewed.²⁷

According to OCFO officials, District law only requires the TAFAs to include a summary of the proposed community benefits as reported by the applicant. The officials also stated that District law does not require a quantification or opinion from OCFO on those benefits. Although District law does not explicitly require quantifications of community benefits, it implies such a mandate as the law requires OCFO to consider the public policy objectives of the abatements. For example, when the public policy objective of abatement is to create affordable housing units, the D.C. Code requires OCFO to analyze the financial value of the subsidy. In such a case, OCFO is

²⁵ *Id.* at 8.

²⁶ D.C. Code §§ 47-4701(b)(1)(F)(iii) -(iv) and 47-4701(b)(2)(A).

²⁷ For the purpose of discussion, the public policy objective of the abatement is to promote economic value for the community.

required to measure the economic value of the proposed affordable housing units to the District by calculating “the difference between the market rate of a comparable unit within the same neighborhood and the rate that is being charged as affordable housing.”²⁸

Without considering the public policy objectives of the abatements by measuring the applicable economic value to the District, OCFO cannot assure the \$539 million in tax abatements are in the District’s best interest. Reviewing and verifying information submitted by applicants, including proposed community benefits, will enhance the quality of information that policymakers and the public rely on to weigh costs and benefits related to tax abatement for a given project.

We recommend that the Interim Chief Financial Officer:

8. Develop procedures to analyze and validate the financial value of subsidies when the public policy objectives of abatement are to create economic values for the community as the D.C. Code requires.

OCFO’s Conclusion on Tax Abatements Did Not Always Conform with its Decision Techniques

Our review of OCFO’s analysis and supporting documentation indicated that OCFO’s conclusions and recommendations were not always consistent with its decision techniques. In 2 of the 10 projects we reviewed, OCFO used the IRR of the applicants’ projected cash flow to assess applicants’ financial condition. The IRR is the discount rate that sets the net present value of the program or project to zero²⁹ or the rate at which a project will recover its costs. The required rate of return (RRR) is the minimum return expected by investors in exchange for their equity investment. According to the IRR decision rule, a project has sufficient equity for financing without the abatement if the project’s IRR is greater than the required rate of return. In one instance, the project’s IRR without tax abatement exceeded the RRR, but OCFO concluded that tax abatement was necessary for the project.

For one of the projects in question, on January 31, 2012, OCFO received a request from a D.C. Council member to conduct a TAFE on proposed legislation to grant \$5.4 million in property tax abatement over 10 years. On March 15, 2012, OCFO completed the TAFE and recommended that the D.C. Council consider granting \$3.6 million over the same period. OCFO’s recommendation was to enable the applicant to raise the equity financing needed to complete the project. The applicant provided a capital structure of 30 percent in equity finance and the remaining 70 percent in debt finance. The application also included 8 percent as the return on cost for the equity finance and 5 percent as the interest rate for the debt financing.

Further, the application included an IRR of 16 percent without tax abatement. Applying the IRR decision rule, the tax abatement of \$3.6 million was not needed. The project could have been financed without the proposed abatement because the project’s IRR of 16 percent is greater than the RRR of 8 percent.

²⁸ D.C. Code § 47-4701(b)(2)(A)(iii).

²⁹ OMB Circular No. A-94, Section 8(b)(2).

We also compared the financing need included in the abatement request to the actual financing and found the developer did not need tax abatement to raise the equity financing. As of December 2016, one of the two projects was completed, and the actual capital structure was 17 percent equity instead of 30 percent as initially proposed. We applied the 17 percent actual equity finance to OCFO's analysis, and we recalculated the IRR of the projects as 46 percent.

We attribute this condition to OCFO using different required rates of return other than what the applications clearly stated. Without having conclusions and recommendations that are consistent with an objective set of criteria that assesses both costs and benefits, TAFAs may not provide decision-makers with complete and defensible recommendations.

We recommend that the Interim Chief Financial Officer:

9. Develop procedures for reviewing and validating the TAFE and all applicants' information and assumptions to ensure conclusions are consistent with an objective set of criteria.

OCFO Did Not Obtain Self-Certifications as Required

According to D.C. Code § 47-4702(a), on or before April 1 of each year, any nonprofit organization or business entity owning property receiving a real property tax exemption or abatement shall be required to file an annual report, under oath, with OCFO. Our review of OCFO's records indicates that 4 of 10 tax abatement recipients did not file one or more annual Exempt Property Use Reports or certifications with RPTA since the abatements took effect.³⁰

According to D.C. Code § 47-4702(b), "[f]ailure to certify that the property was still eligible for the . . . abatement based on the use of the property . . . shall result in a termination of the abatement as of the beginning of the tax year in which the report is required to be filed." We found that the four projects in question were still receiving the tax abatements as of 2019, despite the lack of compliance. Without the annual certifications, the District does not have the assurance that tax abatement recipients are still eligible for the abatement and providing promised community benefits.

According to OCFO officials, during FY 2021, RPTA began sending Exempt Property Use Reports to all abatements in the tax system. Prior to FY 2021, the reports were going to properties with exemptions, not abatements.³¹ OCFO officials also said that RPTA does not receive requirements for the abatements and does not have a clear understanding of the community benefit terms compared to other agencies.

³⁰ Three of these were tax abatement recipients under Title 47 D.C. Code, Chapter 46 and one received the abatement under Title 47 D.C. Code, Chapter 10, meaning all were subject to the recertification requirement.

³¹ OCFO officials stated that Exempt Property Use Reports should be sent to "[e]very institution, organization, corporation, or association owning property exempt under the provisions of paragraphs (4) to (20) of § 47-1002 [D.C. Code § 47-1007(a)]; every nonprofit organization or business entity owning property receiving a real property tax exemption pursuant to Chapter 10 (other than property exempt under § 47-1002(1), (2), (3), or (21)) or Chapter 46 of Title 47 of the D.C. Official Code [D.C. Code § 47-4702(a)]; and every person, organization or entity required to file a use report under the provisions of another law granting a real property tax exemption or abatement."

Alternatively, as part of its self-certification reviews, OCFO did not consider validating community benefits during the term of the tax abatement period nor at the end of the period to ensure the District realizes the community benefits as proposed at the time of the applications. According to OCFO officials, it is the responsibility of relevant agencies such as the District of Columbia Department of Employment Services (DOES) and the Department of Housing and Community Development (DHCD) to track the applicable community benefits.

We did not audit these agencies but directly contacted DOES and DHCD to confirm whether they tracked community benefits as stated in terms of the tax abatements for the projects we reviewed. DOES responded that it does track community benefits and has shown evidence of some agreements in place but did not provide the OIG evidence of jobs created. Additionally, DHCD could not locate the TAFAs projects in its QuickBase Inclusionary Zoning Dashboard and Affordable Dwelling Units Dashboard databases. If coordination and sharing information such as cash flows and other necessary tax abatement documentation do not occur between OCFO and relevant agencies, the District does not assure that tax abatement projects either remain eligible for relief or are providing their promised benefits to D.C. taxpayers and their communities.

We recommend that the Interim Chief Financial Officer:

10. Develop procedures to monitor tax abatement recipients' compliance with the annual certification requirements set forth in D.C. Code § 47-4702(a).
11. Develop procedures to enforce the requirements set forth in D.C. Code § 47-4702(b) by terminating the abatement for failure to certify the use of a property annually.
12. Develop a plan to establish and assign personnel responsibilities and authority to effectively coordinate and share TAFAs supporting information within OCFO and with other District agencies that monitor community benefits, including DHCD and DOES.

CONCLUSION

Conducting retrospective analyses of the overall tax abatement program would be an opportunity for OCFO to determine whether recipients still require tax relief and are providing economic value to the District. Additionally, for individual TAFAs, OCFO's methods for evaluating the tax abatement amount were adequately designed, but use of the methods for assessing TAFAs, ensuring compliance with self-certification requirements, and calculating and monitoring expected community benefits needs improvement. The recommendations included in this report will benefit OCFO's tax abatement methodology and monitoring procedures, leading to increased assurance for the D.C. Council and taxpayers that tax abatements are providing benefits to the community.

AGENCY RESPONSE AND OFFICE OF THE INSPECTOR GENERAL COMMENTS

We provided the Office of the Chief Financial Officer (OCFO) with our draft report on September 16, 2021 and received its response on October 29, 2021. We appreciate that OCFO officials began addressing some of the findings immediately upon notification during the audit.

Our draft report included 12 recommendations we made to OCFO for actions we deemed necessary to correct identified deficiencies. OCFO agreed with Recommendations 10, 11, and 12. Therefore, we consider these recommendations resolved but open pending evidence of stated actions. OCFO did not fully agree with Recommendation 9, but OCFO actions taken and/or planned are responsive and meet the recommendation's intent. Therefore, we consider this recommendation resolved but open pending evidence of stated actions.

Although OCFO disagreed with Recommendations 5 and 7, OCFO actions taken and/or planned are responsive and meet the recommendations intent. Therefore, we consider these recommendations resolved but open pending evidence of stated actions. OCFO also disagreed with Recommendations 1, 2, 3, 4, 6, and 8. We consider these recommendations open and unresolved. OCFO should consider the intent of these recommendations in the context of (a) its overall mission of enhancing the "the fiscal and financial stability, accountability and integrity of the Government of the District of Columbia" and (b) its responsibility of "providing advice on economic development matters," as fully described in the background section of this report.

ACTIONS REQUIRED

We request that OCFO reconsider its position and provide additional responses to Recommendations 1, 2, 3, 4, 6, and 8 within 30 days of the date of this final report.

Appendix A. Objectives, Scope, and Methodology

The OIG conducted this audit to (1) assess OCFO's methodology for conducting a cost-benefit analysis of proposed tax abatements and (2) assess the accuracy of this analysis in practice when applied to active projects. We conducted our audit from December 2019 to August 2021. Due to the COVID-19 Public Health Emergency, we suspended this audit from April 2020 through August 2020. We conducted this audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To evaluate the effectiveness of OCFO's methodology, we selected and reviewed a sample of 10 TAFAs cumulatively valued at \$129 million, out of 69 TAFAs cumulatively valued at \$539 million. We met with OCFO and the D.C. Council officials to gain an understanding of the TAFE process and the sampled TAFAs. We utilized the OCFO website to review and analyze TAFE documents and locate public tax database information. In addition, we utilized the D.C. Council's website to access its Legislative Information Management System to review the status of the sampled bills.

The OIG used the TAFE requirements as stated in D.C. Code, OCFO TAFE policies and procedures, and OMB Circular No. A-94 Revised – *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs* to assess the effectiveness of the methodology used when conducting the cost-benefit analysis of proposed tax abatements and the accuracy of the analysis. This included receiving and analyzing real property tax data, TAFE application materials, historical documents, and internal work product from OCFO specific to the sampled tax abatements.

We assessed the validity and reliability of computer-processed data and performed limited existence and completeness tests to verify the accuracy of the data. We determined that the data were sufficiently reliable for this report.

Appendix B. Acronyms and Abbreviations

CFO	Chief Financial Officer
D.C.	District of Columbia
DHCD	Department of Housing and Community Development
DOES	Department of Employment Services
EDF	Office of Economic Development Finance
GAGAS	Generally Accepted Government Auditing Standards
IRR	Internal Rate of Return
NOI	Net Operating Income
NPV	Net Present Value
OCFO	Office of the Chief Financial Officer
OIG	Office of the Inspector General
OMB	Office of Management and Budget
ORA	Office of Revenue Analysis
OTR	Office of Tax and Revenue
RPTA	Real Property Tax Administration
RRR	Required Rate of Return
TAFA	Tax Abatement Financial Analysis
WACC	Weighted Average Cost of Capital

Appendix C. Table of Recommendations

Responsible Agency	Recommendations	Potential Monetary Benefits	Agency Response
OCFO	1. The OCFO develop or adopt a methodology such as OMB Circular No. A-94 Revised to conduct prospective analyses, including calculating net present value of tax abatement requests.		Disagreed
OCFO	2. The OCFO develop or adopt a methodology such as OMB Circular No. A-94 Revised to conduct prospective analyses, including developing a discount rate policy.		Disagreed
OCFO	3. The OCFO develop or adopt a methodology such as OMB Circular No. A-94 Revised to conduct prospective analyses, including performing a sensitivity analysis.		Disagreed
OCFO	4. The OCFO develop a plan for conducting a periodic retrospective cost-benefit analysis of individual tax abatements and the tax abatement program overall to obtain reasonable assurance that the program created economic value for the District.		Disagreed
OCFO	5. The OCFO develop procedures to conduct periodic formal training for analysts responsible for performing TAFA.		Disagreed
OCFO	6. The OCFO develop procedures to conduct periodic comparison of estimated cash flows to actual cash flows to consider the financial feasibility of proposed projects as the D.C. Code requires.		Disagreed

Responsible Agency	Recommendations	Potential Monetary Benefits	Agency Response
OCFO	7. The OCFO develop procedures to ensure the fiscal needs of the beneficiary are calculated, documented, maintained, and reported consistently.		Disagreed
OCFO	8. The OCFO develop procedures to analyze and validate the financial value of subsidies when the public policy objectives of abatement are to create economic values for the community as the D.C. Code requires.		Disagreed
OCFO	9. The OCFO develop procedures for reviewing and validating the TAFA and all applicants' information and assumptions to ensure conclusions are consistent with an objective set of criteria.		Agreed in Part
OCFO	10. The OCFO develop procedures to monitor tax abatement recipients' compliance with the annual certification requirements set forth in D.C. Code § 47-4702(a).		Agreed
OCFO	11. The OCFO develop procedures to enforce the requirements set forth in D.C. Code § 47-4702(b) by terminating the abatement for failure to certify the use of a property annually.		Agreed
OCFO	12. The OCFO develop a plan to establish and assign personnel responsibilities and authority to effectively coordinate and share TAFA supporting information within OCFO and with other District agencies that monitor community benefits, including DHCD and DOES.		Agreed

Appendix D. OCFO Response to the Draft Report

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER**



Fitzroy Lee
Acting Chief Financial Officer

October 29, 2021

Daniel W. Lucas, Inspector General
Office of the Inspector General
717 14th Street, NW, First Floor
Washington, DC 20005

Dear Inspector General Lucas:

Please find attached the Office of the Chief Financial Officer's responses to the Draft Report of Project No. 20-1-02AT (the Draft Report). If you have any questions or require additional information, please contact Ms. Carmen Pigler, Deputy CFO for the Office of Finance and Treasury at (202) 727-7209.

Sincerely,



Fitzroy Lee

Enclosure

cc: Carmen Pigler, Deputy CFO, Office of Finance and Treasury
Timothy Barry, Executive Director, OCFO Office of Integrity and Oversight

The Office of Finance and Treasury (OFT) and the Office of Tax and Revenue (OTR), on behalf of the Office of the Chief Financial Officer (OCFO), have reviewed and provide responses below to the three overall findings of the Draft Report (the Findings).

- I.** *OIG Finding 1: The OCFO did not assess and validate the completeness and accuracy of the estimated cost of development and the operating cash flows for 4 of the 10 TAFAs we reviewed. Reviewing and verifying the information applicants submitted will enhance the quality of the information that policymakers and the public rely on to weigh costs and benefits related to tax abatement for a given project.*

OCFO Response to OIG Finding 1: Each TAFE analysis performed includes a review of information provided by an applicant. The TAFE Law does not require an applicant to certify the completeness or accuracy of the information provided, however EDF analysts use professional judgement to review the reasonableness of information provided and revises the applicant's assumptions when necessary.

- II.** *OIG Finding 2: The OCFO did not consider as part of its financial analysis the applicable economic value of the community benefits for the 10 TAFAs we reviewed. From November 2011 through FY 2019, OCFO completed 69 TAFAs, with an estimated \$539 million in tax abatements that required OCFO's consideration of the public policy objective of the abatement. Without considering the public objectives of the abatements (determined by measuring the applicable economic value to the District), OCFO cannot assure the \$539 million in tax abatements are in the District's best interest.*

OCFO Response to OIG Finding 2: TAFE analysis is performed within the guidelines established by the TAFE Law. These guidelines stipulate the limited circumstances in which public policy objectives and community benefits must be reviewed and evaluated.

The Exemption and Abatements Information Requirements Act of 2011, as amended and found in D.C. Official Code § 47-4701 (the TAFE Law), requires that a TAFE include only a "summary of the proposed community benefits to be provided by the grantee of the exemption or abatement..." and requires no further analysis of this information by OCFO. The TAFE Law does not require OCFO to evaluate the proposed public policy goals as part of the financial analysis outlined in D.C. Official Code § 47-4701(b)(1)(F) *except* when the recipient's financial information is unavailable, or when the exemption or abatement is related to property owners or taxpayers who cannot be readily identified. The Draft Report's assertion, that "OCFO is required to consider the public policy objective of the abatement" contradicts the TAFE Law.

The TAFE Law states the financial analysis to be prepared by the OCFO in D.C. Official Code § 47-4701(b)(1)(F), shall include "a review and analysis of the financial condition of the recipient of the proposed exemption or abatement." For development projects, this is commonly known as a "but for" analysis. A TAFE must reflect, absent a financial subsidy from the District, whether

the subject project is financially viable. Preparation involves reviewing and validating a pro forma real estate analysis provided by the applicant, as described above. A discounted cash flow analysis focused on the return requirements of a project's equity investors is the most appropriate evaluation tool for this analysis, rather than the identification of the District's costs or benefits.

III. *OIG Finding 3: The OCFO did not obtain one or more annual Exempt Property Use Reports or certifications for 4 of the 10 TAFAs. According to D.C. Code § 47-4702(b), "[f]ailure to certify that the property was still eligible for the . . . abatement based on the use of the property . . . shall result in a termination of the abatement as of the beginning of the tax year in which the report is required to be filed." The four projects in question were still receiving tax abatements as of 2019, despite the lack of compliance. Without annual certifications, the District does not have assurance that tax abatement recipients remain eligible for the abatement and that recipients are providing promised community benefits to the District.*

OCFO Response to OIG Finding 3: Since OIG initiated the audit of the TAFE process in 2019, OTR implemented the Modernized Real Property Tax System (MRPTS), addressing OIG's finding that projects in question were receiving tax abatements, despite the lack of compliance with annual Exempt Property Use Reports or certifications.

Prior to the implementation of MRPTS, the reporting process was largely manual and subject to staff and other agency resource constraints. With the implementation of MRPTS in 2020, OTR's efforts to monitor compliance and execute enforcement actions have been greatly enhanced, including removal of an exemption or abatement for non-compliance. Exempt Property Use Reports are now filed online through the mytax.dc web portal. Online filing requirements enable MRPTS to monitor the filing of reports and provide OTR with the information needed to determine whether a tax exemption or abatement should be removed for failure to comply. The implementation of this new system will significantly improve the administration of the use reporting requirements, leveraging existing agency resources for greater productivity and efficiency.

The Office of Finance and Treasury (OFT) and the Office of Tax and Revenue (OTR), on behalf of the Office of the Chief Financial Officer (OCFO), have reviewed the Draft Report and our response to the recommendations are as follows:

OIG Recommendation 1: Develop or adopt a methodology such as OMB Circular No. A-94 revised to conduct prospective analyses, including calculating net present value of tax abatement requests. (p. 7).

OCFO disagrees with this recommendation. The TAFE Law states the financial analysis to be prepared by the OCFO in D.C. Official Code § 47-4701(b)(1)(F), shall include “a review and analysis of the financial condition of the recipient of the proposed exemption or abatement.” This is commonly known as a “but for” analysis. A TAFE must reflect, absent a financial subsidy from the District, whether the subject project is financially viable. Preparation involves reviewing and validating a pro forma real estate analysis provided by the applicant, as described above. A discounted cash flow analysis focused on the return requirements of a project’s equity investors is the most appropriate evaluation tool for this analysis, rather than the identification of the District’s costs or benefits. Therefore, within the context of the TAFE Law, OCFO is not required to conduct prospective analyses that would necessitate calculating the net present value of tax abatements. Therefore, net present value analysis and adopting the valuation methodology of OMB Circular No. A-94 is not applicable.

OIG Recommendation 2: Develop or adopt a methodology such as OMB Circular No. A-94 revised to conduct prospective analyses, including developing a discount rate policy. (p. 7).

OCFO disagrees with this recommendation. Within the context of the TAFE Law, OCFO is not required to conduct prospective analysis that would necessitate determining the present value of future cash flows to the District. Therefore, developing a discount rate policy, and adopting methodology such as OMB Circular No. A-94 is not applicable.

OIG Recommendation 3: Develop or adopt a methodology such as OMB Circular No. A-94 revised to conduct prospective analyses, including performing a sensitivity analysis. (p. 7).

OCFO disagrees with this recommendation. Within the context of the TAFE Law, OCFO is not required to conduct prospective analysis, including sensitivity analysis. Therefore, developing sensitivity analysis, and adopting methodology such as OMB Circular No. A-94 is not applicable.

OIG Recommendation 4: Develop a plan for conducting a periodic retrospective cost-benefit analysis of individual tax abatements, and for the tax abatement program overall, to obtain reasonable assurance that the program creates economic value for the District. (p. 7).

OCFO disagrees with this recommendation. The TAFE Law does not require a retrospective economic cost-benefit analysis. OCFO will continue to provide retrospective evaluation of certain tax abatements and expenditures through the tax preference studies prepared in accordance with DC Law 20-155.

OIG Recommendation 5: Develop procedures to conduct periodic formal training for analysts responsible for performing TAFAs. (p. 9)

OCFO disagrees with this recommendation. EDF has established policies and procedures outlining the TAFE Law and the necessary analysis required to complete a TAFE. These policies and procedures are reviewed annually as required by OCFO. Beyond established policies and procedure, EDF professionals are engaged day-to-day with the Washington metro real estate market and the dynamics of financial markets in general. EDF has competent and credentialed professionals that apply this real-world knowledge to each TAFE analysis conduct, but because the TAFE Law is unique to the District, formal training on preparing a TAFE is not available. OCFO supports the ongoing professional development of EDF staff, and analysts are engaged with several professional organizations including the Urban Land Institute, the Council of Development Finance Agencies, and the International Economic Development Council. Through these organizations, EDF analysts can further hone many aspects of their analytical skills.

OIG Recommendation 6: Develop procedures to conduct periodic comparison of estimated cash flows to actual cash flows to consider the financial feasibility of proposed projects as the D.C. Code requires. (p. 9).

OCFO disagrees with this recommendation. For the purposes of evaluating development projects, financial feasibility is considered prospectively, at the time of the analysis, based on the project's identified funding sources and the budgeted cost to develop the project. This is consistent with real estate investment practices. It would be in the purview of the Council to decide whether to make legislatively authorized abatements and exemptions contingent upon continued documentation that the abatement or exemption is financially necessary. Without annual financial information as a condition of continued receipt of the abatement or exemption, OCFO typically does not have sufficient information to determine whether the investment objectives of its investors and managers are met and whether it is financially necessary. Doing ongoing review would also require more OCFO staff and budget than is currently available.

OIG Recommendation 7: Develop procedures to ensure the fiscal needs of the beneficiary are calculated, documented, maintained, and reported consistently. (p. 9).

OCFO disagrees with this recommendation. Provided that the beneficiary is complying with the TAFE Law and filing the required use reports, OCFO does not have the legislative authority to further review the fiscal needs of the beneficiary once the TAFE is completed. If an Exempt Property Use Report evidences a use that is inconsistent with the law, then the associated abatement or exemption would be revoked. These use reports are now monitored by MRPTS as discussed further below.

Action Item: OFT will review procedures already in place, and revise procedures as needed, to ensure a review of information provided by applicants is congruent with TAFE Law.
Deadline: March 31, 2022

OIG Recommendation 8: Develop procedures to analyze and validate the financial value of subsidies when the public policy objectives of abatement are to create economic values for the community as the D.C. Code requires. (p. 10).

OCFO disagrees with this recommendation. The TAFE Law does not require OCFO to provide an analysis of the financial value of community benefits, nor does it require such a policy objective be considered for most TAFAs. The Exemption and Abatements Information Requirements Act of 2011, as amended and found in D.C. Official Code § 47-4701 (the TAFE Law), requires that a TAFE include only a “summary of the proposed community benefits to be provided by the grantee of the exemption or abatement...” and requires no further analysis of this information by OCFO. The TAFE Law does not require OCFO to evaluate the proposed public policy goals as part of the financial analysis outlined in D.C. Official Code § 47-4701(b)(1)(F) *except* when the recipient’s financial information is unavailable, or when the exemption or abatement is related to property owners or taxpayers who cannot be readily identified. The Draft Report’s assertion, that “OCFO is required to consider the public policy objective of the abatement” contradicts the TAFE Law.

OIG Recommendation 9: Develop procedures for reviewing and validating the TAFE and all applicants’ information and assumptions to ensure conclusions are consistent with an objective set of criteria. (p. 11).

OCFO concurs in part with this recommendation. Many aspects of the TAFE analyses require the analyst make judgments based on specialized expertise in real estate and financial analysis, completing the analysis based on the information provided by the applicant. OFT-EDF will review existing policies and procedures and revise procedures where necessary to ensure they are congruent with criteria of the TAFE Law.

Action Item: OFT will review procedures already in place, and revise procedures as needed, to ensure a review of information provided by applicants is congruent with TAFE Law.
Deadline: September 30, 2022

OIG Recommendation 10: Develop procedures to monitor tax abatement recipients’ compliance with the annual certification requirements set forth in D.C. Code § 47-4702(a). (p. 13)

OCFO concurs with this recommendation. Prior to the implementation of MRPTS, the reporting process was largely manual and subject to staff and other agency resource constraints. With the implementation of MRPTS in 2020, OTR’s efforts to monitor compliance and execute enforcement actions have been greatly enhanced, including removal of an exemption or abatement for non-compliance. Exempt Property Use Reports are now filed online through the mytax.dc web portal. Online filing requirements enable MRPTS to monitor the filing of reports and provide OTR with the information needed to determine whether a tax exemption or abatement should be removed for failure to comply. The implementation of this new system will significantly improve the administration of the use reporting requirements, leveraging existing agency resources for greater productivity and efficiency.

Action Item: This process underway and is expected to be fully implemented by September 30, 2022. Staff will send a notice to OIG once it is fully implemented.

Deadline: September 30, 2022

***OIG Recommendation 11:** Develop procedures to enforce the requirements set forth in D.C. Code § 47-4702(b) by terminating the abatement for failure to certify the use of a property annually. (p. 13).*

OCFO concurs with this recommendation. With the implementation of MRPTS in 2020, OT programmed the system to automatically revoke exemptions and abatements for failure to file the annual report, enforcing the annual filing requirement.

***OIG Recommendation 12:** Develop a plan to establish and assign personnel responsibilities and authority to effectively coordinate and share TAFE supporting information within OCFO and with other District agencies that monitor community benefits, including DHCD and DOES. (p. 13).*

OCFO concurs with this recommendation. OTR will work with OFT-EDF staff to develop protocols for sharing, as appropriate, of TAFE supporting information when it would enhance the administration of the abatement and exemption program.

***Action Item:** OFT will assign personnel to coordinate and share TAFE supporting information within OCFO, DHCD, and DOES among others they identify. To do this, staff will develop a list serve of appropriate agency staff, send introductory emails, have conversations or meetings where appropriate, and create template for sharing this information with other agencies. Staff will save materials on the OFT network drive for future staff.*

Deadline: March 31, 2022



To Report Fraud, Waste, Abuse, and Mismanagement Call:
(202) 724-TIPS (8477) and (800) 521-1639



<http://oig.dc.gov>



oig@dc.gov

