

State of California

Guidelines for Performance Audits of Enhanced Infrastructure Financing Districts

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Introduction

These guidelines are intended to assist independent auditors in developing an audit program for conducting a performance audit of enhanced infrastructure financing districts (EIFDs) required by Government Code (GC) section 53398.88, and reporting on the results of that audit.

The laws and regulations governing EIFDs are found in GC section 53398.50 et. seq., and Title 25, *California Code of Regulations*, Division 1, Chapter 6. GC section 53398.1 defines an EIFD as a “legally constituted governmental entity separate and distinct from the city or county¹ that established it...for the sole purpose of financing public facilities or other projects...” GC section 53398.66(j)(1) states that the public financing authority (i.e., the governing board of the EIFD) shall require the preparation of an annual independent financial audit. In addition, GC section 53398.88 requires every EIFD to have an independent financial and performance audit conducted every two years after the issuance of debt pursuant to GC section 53398.77 in accordance with these guidelines; these guidelines are applicable to the audit pursuant to GC section 53398.88.

Government Auditing Standards, issued by the Comptroller General of the United States, prescribes standards for conducting performance audits in accordance with generally accepted government auditing standards (GAGAS). The 2018 revision to *Government Auditing Standards* as updated by the 2021 technical updates prescribes these standards in Chapter 8: Fieldwork Standards for Performance Audits. Chapter 8, section 8.01 states that for performance audits conducted in accordance with GAGAS, “the requirements and guidance in chapters 1 through 5 and chapter 9 also apply.”

Chapter 1, section 1.22 provides various examples of performance audit objectives including “assessments of program effectiveness, economy, and efficiency; internal control; compliance; and prospective analyses.” A performance audit with effectiveness objectives measures the extent to which the program is achieving its goals and objectives. A performance audit with compliance objectives would include “an assessment of compliance with criteria established by provisions of laws, regulations, contracts, and grant agreements, or other requirements that could affect the acquisition, protection, use, and disposition of the entity’s resources and the quantity, quality, timeliness, and cost of services the entity produces and delivers.” The compliance objective requirements can be either financial or nonfinancial.

These guidelines are intended to assist practitioners in conducting a performance audit with the objectives of program effectiveness and program compliance. The auditor should consider the extent to which Statement on Auditing Standards No. 117—Compliance Audits, promulgated by the American Institute of Certified Public Accountants, should be applied in assessing program compliance. In determining compliance using *Government Auditing Standards*, the independent auditor should adopt and apply, if applicable, Statement on Auditing Standards section 801, *Compliance Audits*.

These guidelines are not intended to set limits on the extent of work to be performed, or to be an all-inclusive manual of audit procedures. The decision to apply additional procedures should be based on consideration of which procedures are sufficient to achieve the audit objectives. Terms such as “verify” and “test” are used to describe the general nature of audit procedures; however, as a practical matter, the practitioner must decide on the scope and method that is most

appropriate in each circumstance. Therefore, practitioners should exercise their professional judgment regarding the selection of auditing procedures. Additionally, other laws or rules that apply to a particular EIFD may not be addressed in these guidelines and may be known only at local government levels. In all audits, practitioners must inquire about the existence of any special legislation that may materially affect the particular EIFD under audit and consider its impact on the selection of audit procedures.

The independent auditor, in conducting the performance audit, should identify, consider, and evaluate internal controls relevant to the audit objectives. These guidelines do not contain procedures relative to the evaluation of internal controls. The choice of procedures and identification of relevant controls is left up to the professional judgment of the independent auditor.

These guidelines include only excerpts from applicable code sections; the complete code sections should be consulted in determining the agency compliance requirements. These laws are available on the [California Legislative Information website](http://leginfo.legislature.ca.gov) at leginfo.legislature.ca.gov. GC section 53398.88(a) details the proper distribution of the audit report, which is the responsibility of the EIFD.

Questions regarding these engagements and responsibilities may be directed to the State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, California 94250, or (916) 324-8907. These guidelines are available on the [State Controller's website](http://www.sco.ca.gov) at www.sco.ca.gov.

Chapter 1: Financial Disclosure and Reporting

1.01 Compliance Requirements

1. The enhanced infrastructure financing district (EIFD) is responsible for maintaining an accounting and reporting system that adheres to generally accepted accounting principles (GAAP) for governmental operations. The State Controller's Office (SCO) prescribes a uniform system of accounts, which provides a basic outline of accounts and a fund structure.
2. Government Code (GC) section 53398.66(j)(2) requires the public financing authority (i.e., the governing board of the EIFD) to adopt an annual report on or before June 30 of each year after holding a public hearing. The annual report shall contain all of the information required under GC section 53398.66(j)(3).
3. The public financing authority is required to have an annual independent financial audit, per GC section 53398.66(j)(1). Title 2, California Code of Regulations, Division 2, Chapter 2, Subchapter 5 prescribes minimum audit requirements and reporting guidelines for special districts.
4. Per GC section 53398.88, the public financing authority is required to have an independent financial and performance audit conducted every two years after the issuance of debt pursuant to GC section 53398.77.

1.02 Audit Objectives

1. Render an opinion on the fair presentation and conformity to GAAP of the EIFD's financial statements and notes to the financial statements in the EIFD's general-purpose financial statements. Present a full disclosure of the EIFD's general-purpose financial statements.
2. Render an opinion on whether the EIFD complied, in all material respects, with applicable compliance requirements (Statement on Auditing Standards section AU 801, *Compliance Audits*). The auditor should consider the EIFD program as a whole when assessing materiality.
 - a. Verify that there are no major audit violations, or list the violations found.
 - b. Verify that there are no other compliance violations, or list the violations found.
3. Determine whether required reports for the legislative body and SCO were completed and submitted by the required dates.

1.03 Recommended Audit Procedures

The independent auditor must perform an independent financial audit of the EIFD in accordance with *Government Auditing Standards*, established by the Comptroller General of the United States; generally accepted auditing standards, established by the American Institute of Certified Public Accountants; and Title 2, California Code of Regulations, Division 2, Chapter 2, Subchapter 5 (Minimum Audit Requirements and Reporting Guidelines for Special Districts). In December 2009, the Auditing Standards Board of the American Institute of Certified Public Accountants issued Statement on Auditing Standards (SAS) No. 117 – Compliance Audits.

1. Verify that the EIFD’s financial statements are presented in accordance with GAAP for governmental operations.
2. Verify that the EIFD applies, in all material respects, the procedures for accounting and reporting, for purposes of annual reporting of financial transactions to SCO, as prescribed by the State Controller.

It may be helpful to review the SCO publication of its prescribed *Special District Uniform Accounting and Reporting Procedures*, which stipulates that agencies must report their financial information in a specified format with specified accounts. Although an EIFD’s ongoing system may not use the same classifications or account titles, information reported in the Annual Report of Financial Transactions to SCO should be reconcilable with the EIFD’s (audited) financial statements.

3. Verify that no major or other material compliance audit violations exist. A major audit violation means that, for the fiscal year in question, an EIFD or the legislative body proposing the EIFD did not do one or more of the following:
 - a. Annually review the adopted financing plan and make any necessary and appropriate amendments;
 - b. Hold public meetings and mail notices, as required (see Chapter 4: Public Notification, of these guidelines for more information);
 - c. Complete an independent financial audit report for the previous fiscal year;
 - d. Meet the requirements of GC section 53398.66(j)(2) before adopting an annual report; or
 - e. Meet the requirement of GC section 53398(j)(2) of adopting, on or before June 30 of each year, an annual report that includes all of the information required by GC section 53398.66(j)(3), listed below:
 - a. A description of the projects undertaken in the fiscal year, including any rehabilitation of structures, and a comparison of the progress expected to be made on those projects compared to the actual progress.
 - b. A chart comparing the actual revenues and expenses, including administrative costs, of the public financing authority to the budgeted revenues and expenses.
 - c. The amount of tax increment revenues received.
 - d. An assessment of the status regarding completion of the enhanced infrastructure financing district’s projects.
 - e. The amount of revenues expended to assist private businesses.

All major audit violations that exist must be disclosed in the compliance audit report. Other material noncompliance issues that come to the independent auditor's attention must also be included in the report.

4. Verify that the public financing authority followed all prescribed timeframes and notification requirements, and GC sections 53398.60, 53398.64, 53398.66, or 53398.75.7(e), as applicable.
5. Test sufficient expenditures to verify that the EIFD financed only items listed in GC section 53398.52 and 53398.53.
6. Confirm with the county auditor the tax increment received by the EIFD and verify that the tax increment was received and accurately recorded in the district's accounting records. Test the district's other revenues. (GC section 53398.75).
7. Review the infrastructure financing plan to determine compliance with GC section 53398.63, including consistency with the general plan of the city or county. This requirement is further expanded upon in Chapter 3: Infrastructure Financing Plan, of these guidelines.
8. Verify that the resolution proposing the formation of the EIFD and providing for the division of taxes of affected tax entities was approved by the governing body of each affected tax entity pursuant to GC section 53398.68.
9. Inquire whether EIFD management has identified new laws and regulations that have a material effect on the determination of amounts in the EIFD's financial statements and obtain an understanding of the possible effects of such laws and regulations on the financial statements. Certain laws and regulations may have a single fiscal year impact, multiple fiscal year impact, or permanent fiscal year impact on the EIFD's financial statements.
10. Verify that the EIFD has met/complied with the requirements of GC sections 53398.54 and 53398.55 related to former redevelopment agency project areas.

Chapter 2: Affordable Housing

2.01 Compliance Requirement

Normally, the creation of an enhanced infrastructure financing district (EIFD) should not result in the removal of existing dwelling units. However, if dwelling units are proposed to be removed or destroyed by public works construction or private development in the area of the EIFD that is subject to a written agreement with the EIFD or that is financed in whole or in part by the EIFD, then the infrastructure financing plan must contain provisions to meet all of the requirements of Government Code (GC) section 53398.56.

In addition, of special significance is GC section 53398.75.5 (Neighborhood Infill Finance and Transit Improvements [NIFTI] Act) and GC section 53398.75.7 (Second Neighborhood Infill Finance and Transit Improvements [NIFTI-2] Act). Both statutes require that specified percentages of the total funds received by the EIFD be used for the acquisition, construction, or rehabilitation of housing for low and very low income households under specific circumstances as required.

Neighborhood Infill Finance and Transit Improvements Act

If a city or county creates a NIFTI district, it allows the EIFD to receive sales and use tax and transactions and use tax for affordable housing purposes upon the adoption of a resolution by the city or county. All of the following conditions must apply:

1. The area to be financed is an infill site as defined by Public Resources Code (PRC) section 21061.3.
2. The boundaries of the EIFD are coterminous with the city or county that established the EIFD, and the use of the revenues is consistent with the purposes for which the taxes are imposed.
3. The infrastructure financing plan provides for the allocation of at least 20 percent of the funds received to be used to finance projects that meet the requirements of existing EIFD statutes for the acquisition, construction, or rehabilitation of housing for rent or purchase to persons of very low, low, and moderate income households, as defined in Health and Safety Code (HSC) sections 50093 and 50105.
4. The infrastructure financing plan includes the requirement that at least 20 percent of any new production in the area to be financed with funds received be for affordable housing as required below:
 - a. At least six percent of any new production be very low income units
 - b. At least nine percent of any new production be low income units

In addition, the proceedings for establishing an infrastructure financing plan have an additional requirement to state that any increase in the total receipts of local sales and use tax received by a city or county will be allocated pursuant to Items 1 through 4 listed above, if applicable.

Further, the legislative body of the city or county that elects to make an allocation pursuant to Items 1 through 4 listed on the previous page to adopt an ordinance to establish the following terms:

1. The procedure by which the city or county will calculate the projected increase in receipts of sales and use tax;
2. The decision process by which the city or county will determine the amount of sales and use tax revenue and transaction and use tax revenue that will be dedicated to the proposed EIFD; and
3. A time and place for a public hearing on the proposal.

Tax revenues collected for and allocated to a NIFTI district cannot be used for highway or highway interchange improvements.

The EIFD must ensure that any affordable housing units that it funds remain permanently available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income, for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units. A city or county cannot terminate a NIFTI district before the EIFD has complied with its affordable housing obligations.

Second Neighborhood Infill Finance and Transit Improvements Act

If a city or county creates a NIFTI-2 district, the EIFD can issue bonds to finance affordable housing developments near transit stations without voter approval.

A city or county can adopt a resolution to allocate its tax revenues (including sales and use tax revenue, and transaction and use tax revenue) to the EIFD if all of the following criteria apply:

1. The area to be financed is within one-half mile of a major transit stop, as defined in PRC section 21064.3.
2. The infrastructure financing plan requires, as specified in GC section 53398.75.7(b)(1)(B), that at least 40 percent of the total funds received by the EIFD be used for the acquisition, construction, or rehabilitation of housing, including costs of predevelopment and land acquisition, for rent or purchase by households with incomes below 60 percent of the area median household income.
3. The infrastructure financing plan requires that 50 percent of the housing funds is used to develop housing for households with incomes between 30 percent and 60 percent of the area median household income, and the remaining 50 percent is used for either affordable housing for households with incomes below 30 percent of the area median household income, or permanent supportive housing to assist homeless persons.
4. The infrastructure financing plan gives first priority for occupancy of housing funded through the plan to income-qualified households displaced from the EIFD through no fault of their own, and secondary priority for occupancy of housing funded through the plan to households or members of the household employed within two miles of the EIFD.

5. The infrastructure financing plan requires that at least 10 percent of the total funds received by the EIFD shall be used for investments in the capital costs of parks, urban forestry, or permanent greening improvements along boulevards, streets, or other public areas within the EIFD; or active transportation capital projects that qualify under the Active Transportation Program described in Streets and Highways Code sections 2380 through 2385, including pedestrian or bicycle facilities, or supportive infrastructure, such as connectivity to transit stations.
6. The boundaries of the EIFD are coterminous with the associated city or county.
7. The expenditure of sales and use tax revenue and transactions and use tax revenue received by the EIFD is consistent with the purposes for which those taxes were imposed. A city or county can only distribute sales and use tax revenue with the consent of any impacted transportation agency that receives tax revenues derived from any tax adopted pursuant to that law, and must ensure that existing or planned transportation operations and capital projects will not be negatively impacted.

The remaining tax increment can be used for the following:

1. Multi-family affordable housing projects or mixed-use projects with affordable multi-family housing and ground-floor commercial uses that support infill and compact development.
2. Transit capital projects, including transit stations and programs that support transit ridership, including waterborne transit.
3. Transit-oriented development projects, including affordable housing and infrastructure that are at or near transit stations, or connect those developments to transit stations.
4. Capital projects that implement local Complete Streets programs.
5. Parking, including detached and decoupled parking structures that provide parking for residents, businesses, or visitors, in lieu of on-site parking for proposed developments, as specified.
6. Other projects or programs designed to reduce greenhouse gas emissions and other criteria air pollutants by reducing the number of automobile trips and vehicle miles traveled.

The infrastructure financing plan must ensure that the requirements are met every 10 years and prohibit revenues that fund the EIFD from being used for highway or highway interchange improvements.

The EIFD must ensure that any affordable housing units that it funds remain permanently available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income, for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units. A city or county cannot terminate a NIFTI-2 district before the EIFD has complied with its affordable housing obligations.

2.02 Audit Objective

Determine whether the EIFD and the infrastructure financing plan complied with requirements regarding new housing, rehabilitated housing, replacement, housing and housing assistance issues; and report all instances of noncompliance. Appendix B provides additional guidance for testing compliance for selected areas of housing assistance law—namely, those of Replacement Housing and Project Area Housing Production.

2.03 Recommended Audit Procedures

Enhanced Infrastructure Financing Districts Housing Requirements for Dwelling Units Proposed to be Removed or Destroyed

If the EIFD removed, destroyed, or replaced dwellings units inhabited or available for rent or sale to persons or families of certain low or moderate income, the following audit procedures may apply:

1. For dwelling units inhabited by persons or families of very low, low, or moderate income as defined in HSC sections 50105 and 50093, at any time within the five years prior to the establishment of the EIFD (GC section 53398.56[a]):
 - a. Verify that the EIFD caused or required, within two years of the removal or destruction of the dwelling units, the construction or rehabilitation of an equal number of replacement dwelling units within one-half mile of the location of the dwelling units to be removed or destroyed, with an equal or greater number of bedrooms as the dwelling units removed or destroyed.
 - b. Verify that the replacement dwelling units are available for rent or sale to persons or families of very low, low, or moderate income at affordable rent, as defined in HSC section 50053; or at affordable housing cost as defined in HSC section 50052.5; to persons in the same or lower income category as the persons displaced from or who last occupied the removed or destroyed dwelling units.
2. For dwelling units not inhabited by persons of low or moderate income within five years prior to the establishment of the EIFD (GC section 53398.56[b]):
 - a. Verify that the EIFD caused or required, within two years of the removal or destruction of the dwelling units, the construction or rehabilitation of at least one dwelling unit, but not less than 25 percent of the total dwelling units removed or destroyed, within one-half mile of the location of the dwelling units to be removed or destroyed.
 - i. Verify that the replacement dwelling units are or shall be of equivalent size and type to the dwelling units removed or destroyed.
 - ii. Verify that an equal percentage of the replacement dwelling units are or shall be available for rent or sale at affordable rent as defined in HSC section 50053, or affordable housing cost as defined in HSC section 50052.5, to extremely low and very low income persons or families, as defined in HSC sections 50105 and 50106, respectively.

3. Verify that the EIFD complied with all relocation assistance requirements of Chapter 16 (commencing with section 7260) of Division 7 of Title 1 of the Government Code for persons displaced from dwelling units by any public works construction or private development within the area of the EIFD that is subject to a written agreement with the EIFD, or that is financed in whole or in part by the EIFD as a result of the infrastructure financing plan (GC section 53389.56 [c]).
4. Verify that the removal or destruction of any dwelling units occupied by persons or families of low or moderate income did not take place unless and until there had been full compliance with the relocation assistance requirements of Chapter 16 (commencing with section 7260) of Division 7 of Title 1 of the Government Code, and GC sections 53398.56 and 53398.63.
5. Verify that the EIFD required by recorded covenants or restrictions that all dwelling units constructed or rehabilitated remain at affordable rent or affordable housing costs to, and be occupied by, persons and families of the same income categories as described in Items 1 and 2 on the previous page, as applicable for the longest feasible time but for not less than 55 years for rental units and 45 years for owner-occupied units (GC section 53398.56 [e][1]). If the district permitted or permits the sale of owner-occupied units prior to the expiration of the of the 45-year period for a price in excess of that otherwise permitted, verify and test the EIFD's procedures to ensure compliance with GC section 65915 (c)(2), the plans to use recaptured funds within five years for any affordable housing purposes described in Health and Safety Code section 34176.1, and any equity sharing program not in conflict with other public funding sources or laws.
6. Test the EIFD's system (i.e., procedures and activities) for monitoring affordable housing deed restrictions to very low, low, and moderate income households.

Neighborhood Infill Finance and Transit Improvements Act (GC section 53398.75.5)

If the city or county, as applicable, adopted a resolution to allocate tax revenues of that entity to the EIFD, including sales and use taxes and transactions and use taxes, the auditor should:

1. Review the resolution and identify the tax revenues allocated to the EIFD.
2. Confirm the amount of tax revenues received by the EIFD.
3. Confirm that the boundaries of the EIFD are coterminous with the city or county that established the EIFD.
4. Confirm that the area to be financed with the funds received is an infill site, as defined in PRC section 21061.3.
5. Review the infrastructure financing plan:
 - a. Verify that the plan requires that at least 20 percent of the total funds received by the EIFD from the tax revenues received pursuant to the resolution be used for the acquisition, construction, or rehabilitation of dwelling units for rent or purchase for persons and families of very low or low income households, as defined in HSC sections 50093 and 50105.

- b. Verify that the plan requires that at least 20 percent of any new dwelling units constructed in the EIFD be affordable to persons and families of low or moderate income, with at least six percent of the new units affordable to very low income households, and at least nine percent of the new units affordable to low income households.
 - c. Verify that the plan stipulates that the requirements of NIFTI are met every 10 years, and document the procedures the EIFD will employ to ensure that this requirement is met.
 - d. Verify that the use of the revenues derived from the sales and use tax and transactions and use tax pursuant to the plan is consistent with the purposes for which the taxes are imposed.
6. Verify that the tax revenues collected for and allocated to the NIFTI district have not been used for highway or highway interchange improvements.
 7. Verify that the EIFD requires by recorded covenants or restrictions that affordable housing units financed by NIFTI remain available at affordable housing costs to, and be occupied by, persons and families of very low, low, or moderate income, for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.
 8. Test the EIFD's system (procedures and activities) of monitoring affordable housing deed restrictions to very low, low, and moderate income households.

Second Neighborhood Infill Finance and Transit Improvements Act (GC section 53398.75.7)

A city or county can adopt a resolution to allocate its tax revenues (including sales and use tax revenue, and transactions and use tax revenue), to the EIFD if the certain requirements of GC section 53398.75.7 have been met. To ensure that these requirements have been met, the auditor should perform the following procedures:

1. Review the resolution and identify the tax revenues allocated to the EIFD.
2. Confirm the amount of tax revenues received by the EIFD.
3. Confirm that the boundaries of the EIFD are coterminous with the city or county that established the EIFD.
4. Confirm that the area to be financed with the funds is within one-half mile of a major transit stop, as defined in PRC section 21064.3.
5. Review the infrastructure financing plan:
 - a. Verify that the plan requires, as specified in GC section 53398.75.7, that at least 40 percent of the total funds received by the EIFD be used for the acquisition, construction, or rehabilitation of housing, including the costs of predevelopment, and land acquisition, for rent or purchase by households with incomes below 60 percent of the area median household income.
 - b. Verify that the plan requires that 50 percent of the housing funds are to be used to develop housing affordable to, and occupied by, households with incomes greater than 30 percent but less than 60 percent of the area median household income, and the remaining 50 percent of the housing funds are used for either (1) housing affordable to,

- and occupied by, households with incomes below 30 percent of the area median household income; or (2) permanent supportive housing to assist people experiencing homelessness.
- c. Verify that the plan gives first priority for occupancy of housing funded through the plan to income-qualified households displaced from the EIFD through no fault of their own, and secondary priority for occupancy of housing funded through the plan to households with a member or members employed within two miles of the EIFD.
 - d. Verify that the plan requires that at least 10 percent of the total funds received by the EIFD pursuant to GC section 53398.75.7 be used for investments in the capital costs of parks, urban forestry, or permanent greening improvements along boulevards, streets, or other public areas within an EIFD; or active transportation capital projects that qualify under the Active Transportation Program (Chapter 8 [commencing with section 2380] of Division 3 of the Streets and Highways Code), including pedestrian or bicycle facilities or supportive infrastructure, including connectivity to transit stations.
 - e. Verify that the plan ensures that the requirements of NIFTI-2 are met every 10 years, and document the procedures that the EIFD will employ to ensure that this requirement is met.
 - f. Verify that if the plan proposes to allocate to the EIFD tax revenues that are derived from sales and use tax for which the city or county has received the consent of any impacted transportation agency that receives tax revenue derived from that tax, and has ensured that existing or planned transportation operations and capital projects will not be negatively impacted.
5. Verify that the use of the revenues derived from the sales and use tax and transactions and use tax pursuant to the infrastructure financing plan is consistent with the purposes for which is tax is imposed.
 6. Verify that the tax revenues collected for and allocated to the NIFTI-2 district have not been used for highway or highway interchange improvements.
 7. Verify that the EIFD requires by recorded covenants or restrictions, that affordable housing units financed pursuant to NIFTI-2 remain permanently available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income, for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.
 8. Test the EIFD's system (i.e., procedures and activities) of monitoring affordable housing deed restrictions to very low, low, and moderate income households.

2.04 Effectiveness Consideration

The practitioner should develop procedures, methodologies, and criteria to determine whether the EIFD has been effective in program goals of providing affordable housing for persons and families of very low, low, and moderate income. For example, if housing units were destroyed as part of a project, the practitioner should determine whether replacement housing was provided within the required time frames and in accordance with the infrastructure financing plan as prepared or amended.

Chapter 3: Infrastructure Financing Plan

3.01 Compliance Requirement

The enhanced infrastructure financing district (EIFD) is required to have an adopted infrastructure financing plan to establish its authority for carrying out its activities. As outlined by law, the adopted plan must document certain information that defines the EIFD's activities and authority, and be consistent with the community's general plan.

3.02 Audit Objective

Determine that the infrastructure financing plan, amendments, and provisions exist and have been adopted.

The audit work required in this section represents procedures that a continuing auditor will most likely need to perform only once, rather than yearly, as infrastructure financing plans function much like charter documents: establishing agency goals, powers, and limitations to conduct its activities over an extended period of time. To avoid the redundancy of performing audit procedures in situations in which a preceding auditor has performed sufficient testing of the infrastructure financing plan, it may be possible to rely on the preceding auditor's work. For plans adopted in a fiscal period prior to the current engagement and in circumstances in which the audit or examination was performed by another auditor, this audit objective may be satisfactorily met by communicating with the preceding auditor, supplemented by considering whether to apply one or more procedures that may involve either reviewing the auditor's working papers or extending tests of the plan in the current audit work. In all cases, auditors should be familiar with the applicable infrastructure financing plan.

3.03 Recommended Audit Procedures

1. Identify the date on which the infrastructure financing plan and its amendments (if any) were adopted. Obtain a copy of the legislative body's ordinance adopting the infrastructure financing plan and any amendments.
2. Review the infrastructure financing plan and amendments (if any) to verify that each of the following provisions are included (GC section 53398.63):
 - a. A specification of the maximum portion of the incremental tax revenue of the city or county and of each affected taxing entity proposed to be committed to the EIFD for each year during which the EIFD will receive tax increment revenue.
 - b. A projection of the amount of tax revenues expected to be received by the EIFD in each year during which the EIFD will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity each year.
 - c. A plan for financing the public facilities to be assisted by the EIFD, including a detailed description of any intention to incur debt.

- d. A limit on the total number of tax dollars that may be allocated to the EIFD pursuant to the plan.
 - e. The financing section must include either of the following:
 - i. A date on which the EIFD will cease to exist, by which time all tax allocation to the EIFD will end. The date shall not be more than 45 years from the date on which the issuance of bonds is approved pursuant to Government Code (GC) section 53398.77 or the issuance of a loan is approved by the governing board of a local agency pursuant to GC section 53398.87; or
 - ii. If the EIFD is divided into project areas, a date on which the infrastructure financing plan will cease to be in effect and all tax allocation to the EIFD will end and a date on which the EIFD's authority to repay indebtedness with incremental tax revenues received under this chapter will end, not to exceed 45 years from the date on which the EIFD or the applicable project area actually received \$100,000 in annual incremental tax revenues. After these time limits have elapsed, an EIFD or project area shall not receive incremental tax revenues. If the EIFD is divided into project areas, a separate and unique time limit shall be applicable to each project area that does not exceed 45 years from the date on which the district actually received \$100,000 in incremental tax revenues from that project area.
 - f. An analysis of the costs to the city or county of providing facilities and services to the area of the EIFD during and after development of the EIFD. The plan must also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city or county as a result of expected development in the area of the EIFD.
 - g. An analysis of the projected fiscal impact of the EIFD and associated development upon each affected taxing entity.
 - h. A plan for financing any potential costs that may be incurred by reimbursing a developer of a project that is both located entirely within the boundaries of the EIFD and qualifies for the Transit Priority Project Program, pursuant to GC section 65470, including any permit and affordable housing expenses related to the project.
3. Verify that if dwelling units within the area of the EIFD are proposed to be removed or destroyed in the course of either public works construction or private development that is subject to a written agreement with the EIFD or that is financed in whole or in part by the EIFD, a plan providing for replacement of those units and relocation of those persons or families is consistent with the requirements of GC section 53398.56.
 4. Verify that the plan includes the goals that the EIFD proposes to achieve for each project financed pursuant to GC section 53398.52.
 5. Verify that the plan includes a map and legal description of the proposed EIFD.
 6. Verify/document that the plan includes a description of the public facilities and other forms of development of financial assistance that is proposed in the area of the EIFD, including those to be provided by the private sector, those to be provided by governmental entities without assistance, those public improvements and facilities to be financed with assistance from the EIFD, and those to be provided jointly. The description must include the proposed location, timing, and costs of the development and financial assistance.

7. Verify/document that if financing from affected taxing entities is incorporated into the financing plan, there is a finding that the development and financial assistance are of communitywide significance and provide significant benefits to an area larger than the area of the EIFD.
8. For infrastructure financing plans or amendments (if any) adopted during the period being audited, verify that the EIFD held public hearings prior to approving the plan, and that a proper public notice was made (see Chapter 4: Public Notification, of these guidelines for more information).
9. For infrastructure financing plans or amendments (if any) adopted during the period being audited, verify that the EIFD adopted rules for property owner participation in connection with the plan and that these rules have been made available for public inspection.
10. For infrastructure financing plans or amendments (if any) adopted during the period being audited, determine from reading the plan or inquiry whether there were any objections raised by property owners or taxing entities.
11. Verify that the infrastructure financing plan was adopted according to the requirements of GC section 53398.66 or 53398.75.7(e), either by ordinance or election.

3.04 Effectiveness Consideration

The practitioner should consider the extent to which the EIFD's infrastructure financing plan will be effective in meeting the legislative intent as expressed in GC section 53398.50. The practitioner should develop procedures, methodologies, or criteria to evaluate how EIFD activities as detailed in GC section 53398.52 will contribute to the effectiveness of the plan.

Chapter 4: Public Notification

4.01 Compliance Requirement

Prior to designating one or more EIFDs, the legislative body of a city or county must adopt a resolution of intention to establish the proposed EIFD. EIFDs must provide public notice of meetings. EIFDs must ensure that the general public is provided access to EIFD records, in accordance with the Public Records Act (Government Code [GC] section 6253); and meetings, in accordance with the Ralph M. Brown Act (Open Meetings Law, GC section 54950 et seq.).

4.02 Audit Objective

Determine whether the legislative body took all necessary steps and made all required notifications to establish the EIFD. Determine whether EIFD records are accessible to the public and determine whether the public is notified of EIFD meetings and reports.

4.03 Recommended Audit Procedures

1. Review meeting minutes to determine whether the EIFD maintained minutes or other records of the proceedings of public meetings, and verify that these records are available for public inspection.
2. Review the EIFD's procedures for providing the public with notification of public hearings or meetings to verify that they include proper and timely mailings, newspaper publication, or permanent-place postings for the requisite time periods and frequency preceding EIFD-related actions or meetings.

The EIFD is required by law to maintain records of public notifications and must publish notifications in newspapers that meet the criteria and definition of general circulation newspapers provided in GC section 6000.

3. Test notifications for inclusion of required information, such as the time and place of hearings, boundary maps, and both legal and non-technical descriptions of proposal(s), as necessary, to appropriate individuals.
4. If the EIFD leased or sold property during the period being audited, review the EIFD's notification procedures and recordation of meetings to confirm that the EIFD made notification disclosures to the public.
5. Verify that the legislative body followed all necessary procedures and notifications for the establishment of the EIFD.
6. Review and determine whether the EIFD's procedures are adequate for making financial public disclosure statements available to the public.

See Chapter 5: Conflict of Interest, of these guidelines for additional information regarding conflict of interest and financial disclosure requirements.

Chapter 5: Conflict of Interest

5.01 Compliance Requirement

As a local government agency, enhanced infrastructure financing districts (EIFDs) are subject to the Political Reform Act of 1974 (the Act), and must adopt and promulgate a conflict-of-interest code that conforms to the requirements established by the Fair Political Practices Commission. These codes must enumerate the positions that involve the making of decisions that may potentially have a material effect on a financial interest. Additionally, per Government Code (GC) section 87302, the codes must specify types of financial interests, contain prohibitions, and require filing of annual public disclosure statements.

5.02 Audit Objective

Determine that the EIFD has in effect personnel rules and regulations for employees of the EIFD that include an established conflict-of-interest code and other procedures regarding use of funds, hiring and firing, neglect of duty or misconduct in office, and the inclusion of public disclosure filings for key individuals in connection with the EIFD.

5.03 Recommended Audit Procedures

1. Obtain the EIFD's adopted conflict-of-interest code to confirm its existence, pursuant to GC section 87302.
2. Review the conflict-of-interest code to verify that the EIFD identifies persons in positions of authority or influence who are subject to the Act and other state and local governmental law, pursuant to GC sections 87300 through 87313.

The requirements for conflict-of-interest disclosure apply to all public officials involved in making decisions regarding EIFD projects. These positions include, but may not be limited to, public officials within the EIFD, members of the local legislative body, planning commissioners, key staff members, and members of a project area committee.

3. Review the conflict-of-interest code to verify that it either addresses or establishes parameters that define financial interests in real property, investments, and other business income sources or positions; pursuant to GC section 87203.
4. Test the agency's filed public disclosure statements to verify that it uses the forms prescribed by the Fair Political Practices Commission and that these statements are filed annually, pursuant to Title 2, California Code of Regulations, sections 18700 through 18753; and GC section 87207.

Public disclosure statements should require disclosure of financial interests in real property, investments, and other business income sources or positions. GC sections 87103, 87201, 87206, 87207, and 87209 define income, financial interests, property interests, business income and positions, and minimum dollar values that must be reported.

Appendix A: Reporting

Chapter 9 of *Government Auditing Standards* prescribes reporting standards for performance audits. To the extent practical, the report should address internal controls identified and tested relating to the performance audit objectives of project effectiveness and project compliance. The report may express an opinion on program effectiveness and provide suggestions to enhance program effectiveness. The report should express an opinion on program and statutory compliance.

Appendix B: Housing Assistance

The affordable housing provisions contained in the EIFD law generally impose, under specified circumstances, on all EIFDs a requirement to make affordable housing available, through either direct or indirect development and assistance, to persons and families of targeted income levels. Along with the procedures noted in Chapter 2: Affordable Housing, this appendix will aid the auditor in testing compliance for selected areas of housing assistance law—namely, those of Replacement Housing and Project Area Housing Production.

Duration of Affordability Requirements

Minimum Time Periods

The units must remain affordable for the longest feasible time (i.e., unlimited duration, but for not less than 45 years for owner occupied units and 55 years for rental units).

Enforcement of Affordability Requirements

Affordability Covenants

The affordability and occupancy requirements must be made enforceable by recorded deed restrictions with the county recorder's office. The covenants or restrictions shall run with land and shall be enforceable against the original owner and successors in interest, by the EIFD or community.

Affordable Housing Cost Definition

Rental Housing

Pursuant to Title 25, California Code of Regulations, section 6918, the housing cost of a rental (i.e., the rent) is defined as the sum of monthly payments for: (a) use and occupancy of a housing unit, land, and facilities associated therewith; (b) separately charged fees or service charges assessed by the lessor required from all tenants, other than security deposits; (c) a reasonable allowance for utilities that are paid by the tenant, excluding telephone service; and (d) any taxes or fees charged for the use of the land and facilities by an entity other than the lessor. Monthly rent is the average of estimated costs for the next twelve months.

Owner-Occupied Housing

Pursuant to Title 25, California Code of Regulations, section 6920, the housing cost of a purchaser is all of the following costs associated with a specific housing unit: (a) principal and interest on mortgage loans, and any loan fees associated therewith; (b) property taxes and assessments; (c) fire and casualty insurance; (d) property maintenance and repairs; (e) a reasonable allowance for utilities, not including telephone; (f) homeowners association dues or fees; and (g) space rent, if any. Monthly housing cost of a purchaser shall be an average of estimated costs for the next twelve months.

Targeted Income Levels

Extremely Low Income Levels¹

For rental housing to be available at affordable housing cost, annual rents, including a reasonable utility allowance, may not exceed 30 percent of 30 percent of the area median household income, adjusted for family size appropriate for the unit. For owner-occupied housing to be available at affordable housing cost, the housing cost shall not exceed 30 percent of 30 percent of the area median household income, adjusted for family size appropriate for the unit.

Very Low Income Levels²

For rental housing to be available at affordable housing cost, annual rents, including a reasonable utility allowance, may not exceed 30 percent of 50 percent of the area median household income, adjusted for family size appropriate for the unit. For owner-occupied housing to be available at affordable housing cost, the housing cost shall not exceed 30 percent of 50 percent of the area median household income, adjusted for family size appropriate for the unit.

Lower Income Levels – Gross Income Exceeds the Maximum Income for Very Low Income Households³

For rental housing to be available at affordable housing cost, annual rents, including a reasonable utility allowance, may not exceed 30 percent of 60 percent of the area median household income, adjusted for family size appropriate for the unit. Additionally, if the household's gross income exceeds 60 percent of the area median household income, adjusted for family size, rents may be set at a level not to exceed 30 percent of the household's actual gross income.

For owner-occupied housing to be available at affordable housing cost, if the gross income does not exceed 70 percent of the area median household income, the housing cost shall not exceed 30 percent of 70 percent of the area median household income, adjusted for family size appropriate for the unit. Additionally, if the household's gross income equals or exceeds 70 percent of the area median household income, housing costs may be set at a level not to exceed 30 percent of the household's actual gross income.

Moderate Income Levels⁴

For rental housing to be available at affordable housing cost, annual rents, including utility allowance, may not exceed 30 percent of 110 percent of the area median household income, adjusted for family size appropriate for the unit. Additionally, if the household's gross income exceeds 110 percent of the area median household income, rents may be set at a level not to exceed 30 percent of the household's actual gross income.

¹ As defined in Health and Safety Code (HSC) sections 50052.5(b)(1) and 50053(b)(1)

² As defined in HSC sections 50052.5(b)(2) and 50053(b)(2)

³ As defined in HSC sections 50052.5(b)(3) and 50053(b)(3)

For owner-occupied housing to be available at affordable housing cost, the housing cost shall not exceed 35 percent of 110 percent of the area median household income, adjusted for family size appropriate for the unit; nor shall it be less than 28 percent of the household's actual gross income. Additionally, if the household's gross income exceeds 110 percent of the area median household income, housing costs may be set at a level not to exceed 35 percent of the household's actual gross income.

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