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February 2015

Performance Audit  
Recommendations and  
Corrective Actions for Audit:  
15-03

City of Burlington Did Not  
Always Administer Its District  
According to Statutory  
Requirements and Did Not  
Remit All Monies Owed to the  
State Education Fund

Dated: June 4, 2012

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# Overview

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The SAO makes recommendations designed to improve the operations of state government. For our work to produce benefits, auditees or the General Assembly must implement these recommendations, although we cannot require them to do so. Nevertheless, a measure of the quality and persuasiveness of our performance audits is the extent to which these recommendations are accepted and acted upon. The greater the number of recommendations that are implemented, the more benefit will be derived from our audit work.

In 2010, the SAO began to follow-up on the recommendations issued in our performance audits. Experience has shown that it takes time for some recommendations to be implemented. For this reason, we perform our follow-up activities one and three years after the calendar year in which the audit report is issued. Our annual performance reports summarize whether we are meeting our recommendation implementation targets.

<http://auditor.vermont.gov/about-us/strategic-plans-and-performance-reports>

This report addresses the requirements of Act 155 (2012) to post the results of our recommendation follow-up work on our website. The report does not include follow-up on recommendations issued as part of the state's financial statement audit and the federally mandated Single Audit, which are performed by a contractor. However, our current contract for this work requires the contractor to provide the results of its recommendation follow-up.

Audit Number & Name	Rec #	Recommendation	Follow-Up Date	Status	Review Comments
<a href="#">12-03 Tax Increment Financing District: City of Burlington Did Not Always Administer Its District According to Statutory Requirements and Did Not Remit All Monies Owed to the State Education Fund</a>	1	Burlington should cease using incremental property tax revenue for payment of the certificates of participation related to the 1991 purchase of the Urban Reserve.	2014	No Longer Applicable	<p>Per an assistant city attorney for the City of Burlington, the City utilized incremental property tax revenue to pay the remaining balance of the certificates of participation. According to Section 1 of Act 80 and Section 501 of the draft rules, any issues identified in the State Auditor's Office (SAO) audit reports that remain unresolved and continue to result in disputed underpayments to the Vermont Education Fund shall cause an accumulation of underpayments commencing only upon adoption of the rules. A letter dated 10/18/2013 from the Commissioner of the Department of Taxes concluded that the City's use of such funds to pay off the improper pre-existing debt was consistent with Act 80, sections 1(a) and 1(c)(1) and that if resolved prior to passage of the rules, the rule would not require corrective action on the part of Burlington as set forth in Section 1(a) of Act 80.</p>
		No further follow-up is required because the recommendation no longer applicable.			
	2	Burlington should modify the calculation of incremental property tax revenue to include all components of the municipal tax rates that do not have restricted uses approved by the legislature.	2014	Implemented	<p>Act 80 (2013) added a provision to address this issue and required that all property taxes, notwithstanding any charter provision or other provision, are subject to the calculation of tax increment. In addition, Act 80 specified a process for future oversight and enforcement. The Vermont Economic Progress Council (VEPC) was granted the authority to adopt rules in accordance with the Vermont Administrative Procedures Act to provide further clarification of statutory construction and administrative detail. SAO reviewed Section 900 OTV and Tax Increment of the draft TIF rule. The subsection 904 (c) contains guidance for which tax rates must be included in the calculation of the increment and specifies that all tax rates must be used regardless of whether the tax rates are for specified municipal purposes. The City of Burlington indicated it had modified its calculation of TIF increment to include all tax rates and provided evidence to demonstrate the revised calculation.</p>
		No further follow-up is required because the recommendation was implemented			
	3	Burlington should work cooperatively with the state to resolve the city's \$1 million shortfall in payments to the state education fund.	2014	Implemented	<p>Section 1 of Act 80 (2013) required Burlington to pay \$200,000 to the Vermont Education Fund. According to this section, the General Assembly considers these payments as final settlement of the sum identified as owed to the Education Fund through the period covered by the audit. Compliance with the payment requirements was verified by the Vermont Economic Progress Council.</p>
		No further follow-up is required because the recommendation was implemented			
	4	Burlington should designate a city official to be responsible for reviewing the statutory requirements for reporting and to document policies and procedures to ensure timely and accurate reporting.	2014	Implemented	<p>The City has designated an assistant city attorney as the responsible official.</p>
		No further follow-up is required because the recommendation was implemented			
	5	Burlington should designate a city official to establish and monitor a set of performance measures, including numerical targets for all measures.	2014	Implemented	<p>The City has designated an assistant city attorney as the responsible official.</p>
		No further follow-up is required because the recommendation was implemented			