

Transportation Improvement Districts: A Guide for Delaware Local Governments

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SYNOPSIS

Across the nation, state transportation departments face challenges in financing infrastructure improvements. In most states, much of the funding for roadway improvements is managed by counties. In Delaware, unlike most other states, the Delaware Department of Transportation (DelDOT) owns and manages over 90% of the roadways throughout the entire state. In surrounding states, including Maryland and Pennsylvania, the state DOT only owns and manages approximately 20% of roadways. Therefore, DelDOT manages much more than most DOTs on a statewide basis.

The Transportation Improvement District (TID) Program was created to be a transportation-based impact fee that helps to streamline and better facilitate the review process for new local transportation improvements in designated areas. TIDs provide a way to equitably distribute the cost of development-related growth and infrastructure improvements in a manner that is more effective, less time consuming, and less costly for both developers and for DelDOT.

The Institute for Public Administration (IPA) at the University of Delaware initially developed this guide in 2014 to help explain the purpose, requirements, and process of the TID program. This document serves as an update to the original guide.

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Intersection Improvement in Henlopen TID

THE NEED FOR TIDS

A comprehensive and well-maintained transportation network efficiently moves people and goods to maximize the assets and values of a community. In Delaware, federal and state transportation funds are the primary sources of funding for transportation improvements including highways, bridges, local roads, transit, bicycle infrastructure, and a safe pedestrian network of sidewalks, crosswalks, and paths.

When new development increases trips and traffic in an area, it places additional demands on the local transportation system. To address this additional burden, developers are asked or required to fund some of the needed transportation improvements. The Delaware Department of Transportation collaborates with local governments and developers to determine what infrastructure changes are needed and how much they will cost. The Transportation Improvement Districts Program offers a more efficient and comprehensive approach than traditional evaluation methods.

Traditional Evaluation Method

A Traffic Impact Study (TIS) is a common planning tool used by departments of transportation, including DelDOT, to forecast demands on the transportation network and determine transportation improvements that may be necessary to accommodate new development. Traffic impact studies are intended to maintain a satisfactory level of service for intersections and movement in an area. A level of service is a qualitative measure that is determined by traffic engineers to measure traffic flow and congestion and describe operational conditions of traffic moving through an area.

Some local governments, such as New Castle County, have written into their development code that intersections must be maintained at a specific service level. These requirements impact what developments can occur and how costly the improvements will be. Determining the future density of development and character of an area supports long-term land use and transportation planning.

The TIS process requires the developer to produce a traffic impact plan that is submitted to DeIDOT for review. During the review process, DeIDOT will identify areas of the local transportation system requiring additional improvements that the developer will be required to fund. The back and forth required in this process is often very lengthy and cumbersome for both the developer and for DeIDOT, and sometimes the result of the process can be inequitable for a developer due to the timing of when proposals are submitted.

For example, multiple developers may build new projects along a roadway near an intersection, but the developer that happens to trigger the need for that intersection to be expanded or improved may be required to pay for all the improvements. The developers who built in the area previously contributed heavily to the impact on the intersection, but because there was not a need for the intersection to be expanded or improved at that time those developers did not pay into the improvements.

A More Comprehensive Approach

DeIDOT's Transportation Improvement District (TID) Program provides an alternate funding mechanism to the TIS to secure the required, long-term transportation system improvements on a "fair share" basis from developers to fund the infrastructure needed within that area. TIDs can be an effective funding mechanism to ease land development pressures and prepare targeted growth areas for market-ready development. A TID provides a framework for managing transportation impacts of planned growth and allows DeIDOT to better plan a localized transportation network that more effectively incorporates pedestrian, transit, and bicycle improvements.

TIDs identify an area where a large amount of new development is anticipated by a local government, developers, and DeIDOT and seek to make all the necessary transportation improvements in that area in a comprehensive manner. TIDs identify rates for developers to pay based on the details of their development at the beginning of a process, so the back and forth involved in a TIS is not necessary. In a TID, the local government identifies the land expected to be developed based on its comprehensive plan and its expected underlying zoning for DeIDOT to determine the needs of the local transportation system in that area. Once those transportation improvements are identified and evaluated, DeIDOT can calculate an amount of funding that a developer must pay toward improvements to the proposed local network. Once the payment is agreed to and made, the developer does not need to do anything else. DeIDOT simply receives the payments from developers and directs those funds to the local system improvements.

As a result, DeIDOT can foster a more comprehensive and sustainable local transportation network. The TID process recognizes the impact transportation investments have on land use, community form, economic development, and quality of life.

WHEN ARE TRAFFIC IMPACT STUDIES REQUIRED?

DeIDOT's *Development Coordination Manual* defines a TIS as "a study conducted during the development approval process to determine the impacts that traffic generated by the proposed development will have on the surrounding street network and the improvements needed to the transportation system in order to mitigate those



Location of the Magnolia TID

impacts” (DelDOT, 2019). In Delaware, a TIS may be required by DelDOT, a local government, or both. Although DelDOT is responsible for the vast majority of the state’s transportation network, a local government such as New Castle County may require a TIS to determine whether proposed development is appropriate for the site and land use context.

TISs may vary in range of detail and complexity—depending on the type, size, and location of the development. While some Delaware jurisdictions require a TIS as part of their rezoning and conditional use processes, they are most commonly, and perhaps most effectively, required as part of the subdivision and land development plan processes. Furthermore, if DelDOT finds that conditions in the area have changed or are projected to change significantly following the completion of the TIS, a new TIS may be required. This lack of predictability is what many developers dislike about the TIS process, because the perception is that often the changes required are inconsistent from project to project and sometimes change late in the development process.

The extent of the study is determined in a scoping meeting that includes representatives from DelDOT, the developer, and usually, the local jurisdiction. The TIS process generally

includes obtaining updated traffic counts, a review of base traffic conditions, an analysis of expected trip generation, an assessment of future traffic volumes, and an analysis of site access locations and nearby intersections.

HISTORY OF TIDS IN DELAWARE

The first TID in New Castle County and in the State of Delaware was in the Town of Middletown in the Westtown area along Middletown-Warwick Road/Old Route 301. The Westtown TID has identified needed transportation improvements that are estimated to cost \$66,669,137.59, with an estimated developer contribution of \$12,417,851.03. These improvements include adding turn lanes, introducing new bike lanes, and developing additional single-lane roundabouts.

In the late 2000s, the Town of Middletown decided to master plan needed traffic improvements along the east side of town along State Route 299. The Town worked with DelDOT and developers to prepare the East Middletown Transportation Plan. Today, the Easttown TID is fully underway, with an estimated cost of \$34,677,726.89 and an estimated \$10,403,318.06 in developer contributions expected toward the completion of its projects.

These projects range from turn lane improvements to new roadway connections and the addition of traffic signals and single-lane roundabouts.

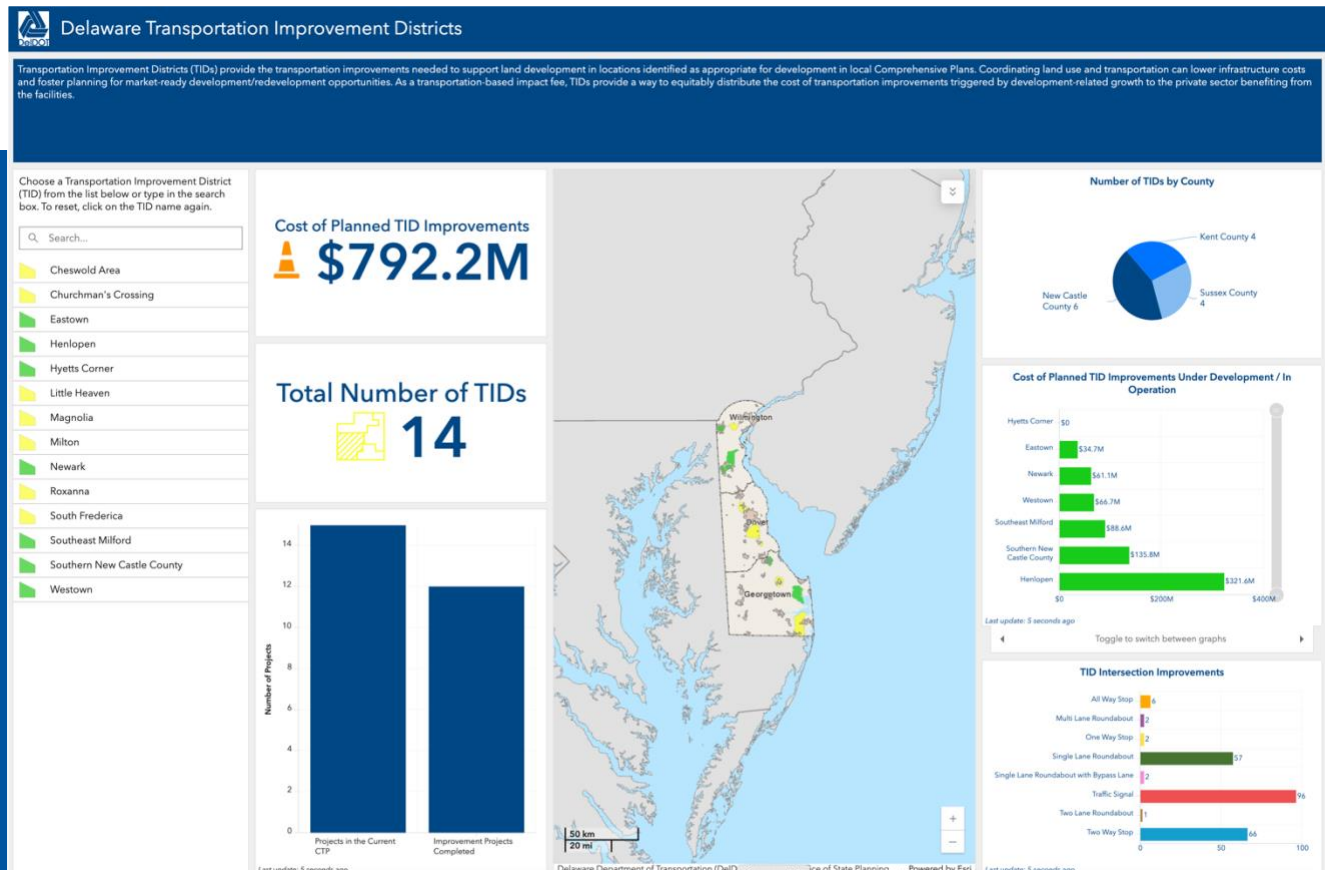
As of 2024, New Castle County contains five locations that operate as a TID in some respects—including Southern New Castle County, Hyett's Corner, and Newark. There are currently 14 TIDs in operation or under development throughout the state of Delaware.

PRIME BENEFIT OF TIDS IN DELAWARE

Focus Transportation Investments to High-Priority Growth Areas

A TID can be an effective tool for ensuring adequate infrastructure to accommodate growth where and when it is anticipated.

To be effective, it is ideal for a TID to be based on a comprehensive plan, used in conjunction with a sound capital improvement program, and funded through a proportional fee formula. A TID can focus and coordinate transportation investments in high-priority growth areas to help support desired development patterns. Furthermore, by focusing TIDs and transportation investment on high-growth areas, various sectors of growth will be stimulated, such as community building and economic development. TIDs also often help to streamline the process of approvals for transportation improvements, which is beneficial to DelDOT, developers, and local governments. The ability to plan a transportation system in a larger area at one time also provides an opportunity for DelDOT to plan an effective multi-modal local system more effectively.



For the most updated information regarding the status of current TIDs in Delaware, visit:
<https://www.arcgis.com/apps/dashboards/4585fb67cdda4e22a6f67510d544265f>

TID PLANNING FRAMEWORK

Land Use and Transportation Planning Roles and Responsibilities in Delaware

Intergovernmental coordination is critical to address increased demands for public services, infrastructure expenditures, and capital improvements. The state of Delaware, local governments, and Metropolitan Planning Organizations (MPOs) should work together collaboratively and cooperatively to develop TIDs and/or master plans that include TIDs.

Delaware local governments have the authority to plan for and manage land use and to institute zoning and other regulatory controls required to implement long-range plans, such as comprehensive plans. This authority includes the power to set public policy regarding the patterns, intensity, and locations of development.

DelDOT has responsibility for and jurisdiction over the vast majority of Delaware's transportation system—including over 90% of the roadways and most of the state's public transit service.

Delaware's MPOs, including WILMAPCO and the Dover/Kent County MPO, are given federal statutory responsibility and are charged with planning and coordinating how federal transportation funds are invested in a region.

Legal Basis for Intergovernmental Coordination

State legislation provides the legal basis and tools that advance intergovernmental coordination in Delaware. The *Delaware*

Strategies for State Policies and Spending guides state investments that foster efficient and effective growth and development. Delaware's Office of State Planning Coordination (OSPC) states that the intent of this document is to "guide state investment decisions to promote efficient development patterns, protect agriculture and open space, discourage sprawl, and communicate with local governments on land-use matters" (2020).

The state has designated five investment levels that determine areas that are most prepared for growth and where the state can make the most cost-effective infrastructure investment, including in transportation. When a TID is created via an agreement between DelDOT and local government(s), they focus on Investment Levels 1, 2, and 3 for new land development. These are areas where the counties and municipalities are planning for growth and must be identified and mapped within a county or local government comprehensive plan.

The two investment levels where TIDs are unlikely to be placed are Level 4 areas, where the state government would like to see support of agricultural business and the protection of natural resources, and "Out-of-play" areas, where land development is not allowed.

The **Delaware Preliminary Land Use Service (PLUS)** process, as authorized by state law (Delaware Code Title 29, Chapter 92), provides for state agency review of major land use change proposals at the start of the land development process. The creation of a TID, which is proposed as part of a comprehensive plan update or amendment, will trigger a PLUS process review by state agency officials. The process is designed to identify and mitigate potential impacts of development that may affect areas beyond local boundaries, to fully

integrate local land use plans with the provision of state investments, and to bring state agency staff together with developers and local officials early in the process.

Step 1: Review State, Local, and MPO Plans and Policies

Essential to the creation of a TID is the development of a comprehensive and specific land use and transportation plan within the geographic area of the district. A local government should first consider whether the location of a proposed TID is within a planned growth and Investment Level 1, 2, or 3 area in the *Strategies for State Policies and Spending* (OSPC, 2020).

In addition, because it may be desirable for the TID to include lands under the jurisdiction of more than one local government, it is critical to review existing comprehensive plans of the county as well as nearby jurisdictions and the long-range transportation plan of the region's MPO. For example, the transportation chapter of the *2018 Kent County Comprehensive Plan* identified and mapped two areas where the "County, DeIDOT, the MPO, and the community will develop a more complete plan addressing a larger area for transportation improvements including road upgrades, interconnection of local roads, and bicycle and pedestrian facilities" (Kent County, Del., 2018).

Step 2: Collaborate with Local, State, Regional Planning Officials

Delaware state law encourages the coordination of planning and development activities among local governments, regional entities, and state government agencies. Local governments should work collaboratively with DeIDOT, the regional MPO, and OSPC to identify how all respective

plans, policies, procedures, standards, studies, and regulations can be improved to support effective land use and transportation solutions—including potential TIDs.

Because a TID may transcend local government boundaries, it sometimes encompasses lands of more than one jurisdiction. TIDs are created by an agreement between DeIDOT, the relevant local government(s), and possibly the federally designated MPO responsible for coordinating transportation planning and programming in the proposed TID area. A local government needs to contact the appropriate planning professional at these entities to begin the process of creating a TID and its required elements.

Step 3: Determine Whether a TID Should Be Created as Part of a Master Plan or Land Use and Transportation Plan

Local governments, an MPO, and DeIDOT need to proactively align land use and transportation improvements. The first consideration is deciding the boundaries and target year for completion of the TID. Once these are set, there are two ways to proceed—a Master Plan or a Land Use and Transportation Plan (LUTP).

Master Plan Option

Where possible, a TID should be part of a master plan. As described in the *Guide for Master Planning in Delaware* (OSPC, 2012), master plans are more detailed than comprehensive plans, and include:

- **Build-out calculations**—number of homes, square footage of offices, and retail stores.
- **Infrastructure needs and costs**—transportation improvements, water, and sewer extensions.
- **Phasing and coordination of infrastructure provision with development.**



Intersection and Roadway Extension Improvements: East Green Street, Eastown TID

Master planning brings all stakeholders together, includes significant public engagement, and is not constrained by jurisdictional boundaries. A master plan developed for a TID area will ideally “identify access, general improvements and needed infrastructure, and guide growth and development over a number of years and in phases” (OSPC, 2012).

Land Use Transportation Plan (LUTP) Option

A local government can also choose to develop an LUTP for the TID. At a minimum, the LUTP requires a local government to provide a parcel-specific land use forecast inside the boundaries of a TID. Smaller jurisdictions should seek assistance from their MPO or DeIDOT to develop this forecast. DeIDOT models the forecast’s effects on transportation to determine the improvements needed to meet agreed-upon service standards. Together the parcel-specific land use forecast and the needed improvements determine the LUTP.

Step 4: Consider the Required and Recommended Elements of a TID

Required TID elements that must be considered by a local government, according to DeIDOT’s regulations, include a:

- **Land Use and Transportation Plan** – As previously described, the development of a specific LUTP within a designated geographic area, OR the *creation of a master plan*, is essential to the creation of a TID.
- **TID Agreement** – A local government needs to enter into a written agreement with DeIDOT (and its MPO and other jurisdictions if appropriate). The agreement needs to address:
 - Initial boundaries, target horizon year for the TID, and procedures for amending them;
 - Roles and responsibilities for creating the LUTP;
 - Service standards to be used in developing the LUTP; and
 - Implementation of transportation improvements identified in the LUTP.

- **Boundaries of the TID** – A TID must have distinct boundaries and follow geographic features that are easily identified and rarely altered but are not roads. TID boundaries should also follow Traffic Analysis Zone (TAZ) boundaries.
- **Target Horizon Year** – Because this is based on a forecast of land use, the target is generally 20 years from the creation of the TID.
- **Land Use Forecast** – The land use and transportation plan for the TID must include a quantitative assessment of development that has been approved, is pending approval, or is projected by the target horizon year.
- **Service Standards** – With input from the public, DelDOT and the local government(s) will establish service standards to determine the necessary transportation improvements and investments required for the TID. The regulations state that “Service standards may include Levels of Service but should also include desired typical sections for local, collector and arterial streets, and standards for the presence and frequency of transit service” (DelDOT, 2019).
- **Adoption in the Local Governments’ Comprehensive Plan** – As previously mentioned, an update or amendment to a comprehensive plan should list and map any TIDs and incorporate by reference any completed LUTPs and TID agreements.
- **Infrastructure Fee Program** – This impact fee establishes a formula that fairly apportions costs of transportation improvements to developers in the TID to pay for necessary transportation improvements.
- **Monitoring Program** – In cases when transportation improvements occur gradually overtime, a monitoring program will be established to determine when design and construction of the next level of improvements should be started.

Step 5: Implement the TID

The local government’s role does not stop at simply identifying and mapping potential TID areas within a comprehensive plan update or amendment. To implement the TID, a local government must:

- **Enter a TID Agreement** – The TID agreement is essentially a parent document that outlines how the parties—DelDOT, local government(s), and MPO—will work together to create and maintain the TID. DelDOT has prepared a TID agreement template that includes all the required elements of a TID. The TID Agreement states that all parties will work together to create:
 - An LUTP or master plan
 - A TID-specific Capital Transportation Plan (TID-CTP)
 - An infrastructure fee program
- **Prepare a TID Capital Transportation Program** – DelDOT will develop cost estimates for transportation improvements and TID-specific projects. Together, these projects and cost estimates, as approved by the local government, comprise the TID Capital Transportation Program (TID-CTP). Local governments, working in collaboration with their MPO, can make the case for including projects from their TID-CTP into DelDOT’s long-term Capital Transportation Program. Following completion of the TID-CTP, the TID agreement can be amended to provide for a monitoring program. The monitoring program is a mechanism for determining when there is a need to add projects from the TID-CTP into DelDOT’s Capital Transportation Program.



Location of the Roxana TID

- ***Establish an Infrastructure Fee Program*** – The intent of the infrastructure fee program is to fairly allocate the costs of transportation improvements among new developments within a TID. A fee formula is established that requires developers in the TID to partially fund necessary transportation improvements. Using those cost estimates an Infrastructure Fee Program is established. As determined by the Program, developers pay a “fair share” portion of transportation improvements. Developers can “pay into” the program either by (1) a cash payment, (2) construction of infrastructure, (3) land needed for right-of-way, or some combination of the three. Typically, local governments are responsible for the collection of fees from developers.

RESOURCES AND REFERENCES

Capital Transportation Program Development Process (DeIDOT, n.d.) This document serves as a guide to the members on DeIDOT’s Council on Transportation (COT) and the public and explains COT’s role in developing the six-year Capital Transportation Program (CTP).

<https://deldot.gov/Publications/reports/CTP/index.shtml>

DeIDOT Project Prioritization Criteria (DeIDOT, n.d.) This document summarizes the process by which DeIDOT prioritizes projects included in its CTP. It provides criteria used to establish a formula-based process as authorized under Delaware Code Title 29, Section 8419.

<https://deldot.gov/Publications/reports/CTP/index.shtml>

Delaware Register of Regulations (Delaware General Assembly, 2013) The April 1, 2013 issue provides the final, adopted *Standards and Regulations for Subdivision Streets and State Highway Access*, including changes related to TIS and TID regulations. The order to delay implementation (Delaware General Assembly, 2013) authorizes May 10, 2013 as the official adoption date of the revised regulations. <https://regulations.delaware.gov/register/april2013/final/16%20DE%20Reg%201087%2004-01-13.htm>

Development Coordination Manual (DeIDOT, 2019) This manual outlines in detail the requirements of DeIDOT for the planning, design, construction, and acceptance of subdivision streets and access to State-maintained roadways. <https://deldot.gov/Business/subdivisions/index.shtml?dc=changes>

Guide for Master Planning in Delaware (OSPC, 2012) Developed by the Delaware Office of State Planning Coordination (OSPC) with the assistance of IPA, this guide describes the characteristics of a master plan, how it is distinct from a comprehensive plan, provides a nine-step process for developing a master plan, and highlights successful examples in Delaware. <https://stateplanning.delaware.gov/publications/documents/master-plan-guide.pdf>

Strategies for State Policies and Spending (OSPC, 2020) The State Strategies outlines spending priorities for the State's management of regulatory programs, land protection, state lands, and buildings and identifies the geographic areas where development should be focused. <https://stateplanning.delaware.gov/strategies/documents/2020-state-strategies.pdf>

2018 Kent County Comprehensive Plan (Kent County, 2018) This document describes the land use objectives for Delaware's central county. Transportation Improvement Districts are described in Section 8-10. <https://www.kentcountysde.gov/files/sharedassets/public/v/1/content-publishers/planning/planning-pdf/2018-comprehensive-plan-adopted-9-11-18-full-document-with-appendices.pdf>

ABOUT THE INSTITUTE FOR PUBLIC ADMINISTRATION

The University of Delaware's Institute for Public Administration (IPA) addresses the policy, planning, and management needs of its partners through the integration of applied research, professional development, and the education of tomorrow's leaders.

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