
**Follow-up Audit of the
Calculation and Assessment of
Commercial Transportation
Impact Fees**



**Phil Diamond, CPA
County Comptroller
Orange County, Florida**

www.occompt.com



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County Audit Division

Wendy Kittleson, CPA, CISA, CIA
Assistant Comptroller, County Audit

Lisa Fuller, CISA, CIA, CGAP
Director

Erin Boley, CPA, CIA
Deputy Director

Audit Team

Ma Janette Mendones, CIA
Audit Supervisor

Orange County Comptroller's Office

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The vision of the Orange County Comptroller's Office is to be recognized as a highly competent, cohesive team leading the quest for continuing excellence in the effective safeguarding and ethical management of public funds, assets, and documents.



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**ORANGE
COUNTY
FLORIDA**

PHIL DIAMOND, CPA
County Comptroller
County Audit Division
Post Office Box 38
Orlando, FL 32802
Telephone: 407-836-5775
www.occompt.com

October 23, 2024

Jerry L. Demings, County Mayor
and
Board of County Commissioners

This audit reviewed the implementation status of our recommendations for improvement from the Calculation and Assessment of Commercial Transportation Impact Fees Audit (Report No. 472). The original audit, issued in October 2018, reviewed the period from October 2015 through June 2017. To test the status of the previous recommendations, we reviewed the period from January 2023 through August 2023.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, 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.

This report summarizes the status of the previous recommendations, including implementation status and remaining recommended work. A response from the Manager of the Fiscal and Operational Support Division follows these recommendations.

We appreciate the cooperation of Fiscal and Operational Support personnel during the audit.



Phil Diamond, CPA
County Comptroller

c: Byron Brooks, County Administrator
Jon V. Weiss, P.E., Deputy County Administrator
Tanya Wilson, Director, Planning, Environmental, and Development Services
Heather Coons, Manager, Fiscal and Operational Support

CALCULATION AND ASSESSMENT OF COMMERCIAL TRANSPORTATION IMPACT FEES FOLLOW-UP

Audit Period
January 2023 – August 2023

We conducted a follow-up audit of our October 2018 Audit of the Calculation and Assessment of Commercial Transportation Impact Fees, Report No. 472. The prior audit report can be viewed at <https://www.occompt.com/186/Audits-Investigations>.

There were six recommendations in the previous report. Recommendation statuses are summarized in the graph below.

RECOMMENDATION STATUS



BACKGROUND

The Planning, Environmental, and Development Services Department's Fiscal and Operational Support Division (PEDS Fiscal) is responsible for the administration and coordination of financial operations, development information and processes, impact fees, and the Geographic Information System (GIS). Within PEDS Fiscal, the Development Services Section is responsible for impact fee calculation and assessment.



Transportation impact fees (TIF) were originally adopted in 1985 to help the County provide adequate transportation facilities for expected growth.

The impact fee schedule is detailed in Chapter 23, Article IV of the Orange County Code (Code). Transportation impact fees are one-time fees imposed on new construction to help pay for the increased demand or anticipated cost of public infrastructure. Impact fees are payable when building permits are issued. Transportation impact fees are calculated based on assigned land use categories, impact fee rates and square footage/number of dwellings.

TIF Calculation



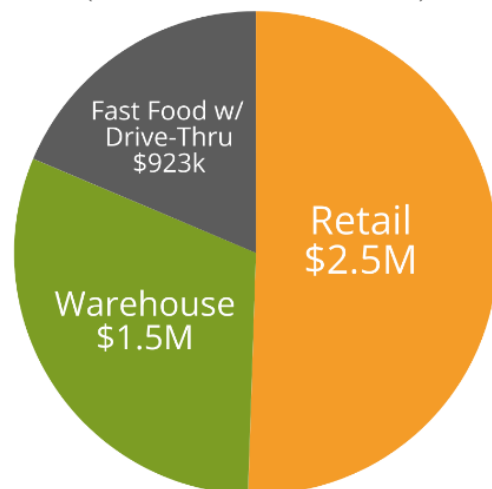
$$\text{TIF Rate Based on Land Use Type} \times \text{Square Foot or Dwelling Unit} = \text{TIF Assessment}$$

Orange County collected approximately \$9.5M in commercial transportation impact fees in fiscal year 2023. It collected \$6.3M during our audit period — January to August 2023. The diagram on the right summarizes the top three land use classifications. These made up 78% of the transportation impact fees collected during the audit period.


On June 4, 2021, House Bill (HB) 337 was signed, limiting local governments, municipality, and city governments' ability to impose impact fees, and limiting impact fee increases to once every four years.

Top 3 TIFs Collected by Land Use Type

(Based on TIFs Collected in FY23)



PRIOR RECOMMENDATIONS

Recommendation 1A	The Planning, Environmental, and Development Services Department should ensure data is timely and accurately recorded into the system.
 <p>NOT IMPLEMENTED</p>	<p>Transportation impact fees are calculated based on three factors:</p> <ol style="list-style-type: none"> 1. Land use classification, 2. Approved rate for land use classification, and 3. Square footage of the structure or number of dwelling units. <p>During the audit period, 102 transportation impact fees were calculated and paid for commercial structures. We reviewed a judgmental sample of 32 of the 102 fees calculated to ensure that the majority of land use classifications were reviewed. To test the accuracy of the transportation impact fees calculated, we reviewed approved architectural plans and compared the square footages or numbers of dwelling units along with land use classifications shown on those plans to the data entered in the Land Development Management System (LDMS) used in these transportation impact fee calculations. Additionally, we verified the calculations were accurate based on rates established in the Code.</p> <p>Our review found that 11 of 32 (34%) sampled fees were calculated incorrectly. Eight of the 11 errors resulted in overpayments totaling \$517,440 in transportation impact fees. The remaining three assessments resulted in underpayments totaling \$8,906.</p> <p>A system upgrade was implemented to automate transportation impact fee calculations. However, this system requires accurate data to properly calculate the applicable fees. Additional controls should be considered to review data in the system.</p>

The following table shows the relative causes of the incorrect impact fee calculations.

OVERCHARGED		UNDERCHARGED
\$473,420	INCORRECT LAND USE TYPE	N/A
\$43,715	INCORRECT SQUARE FEET/DWELLING UNIT	\$7,535
\$305	INCORRECT LAND USE RATE	N/A
N/A	INCORRECT LAND USE RATE AND SQUARE FEET	\$1,371
\$517,440		\$8,906



The largest overpayment was \$405,543. It occurred because the incorrect land use category was used. The project's actual square footage of 300,000 square feet was correctly entered into the system. However, the incorrect land use category was selected — structures between 50,000 and 100,000 square feet. After we notified management of this issue, the overpayment was refunded to the payee.


WHAT REMAINS TO BE DONE



The Planning, Environmental, and Development Services Department's management should develop additional procedures to ensure that accurate system data is input to calculate transportation impact fees. Additional procedures should include:


- A) Providing additional training to ensure that accurate information is entered into LDMS;
- B) Evaluating whether additional system input edits can be programmed into LDMS to prevent incompatible land use categories from being selected based on a project's actual square footage; and,
- C) Implementing an independent review to identify input errors.


Management should also refund the remaining overpayments and collect any underpayments.

<p>Recommendation 1B</p>	<p>The Planning, Environmental, and Development Services Department should automate transportation impact fee calculations or implement a secondary level of review to minimize errors and ensure accuracy.</p>								
<p> PARTIALLY IMPLEMENTED</p>	<p>In the prior audit, we found that excel spreadsheets were used to calculate transportation impact fees. The data was 100% manually input with no system controls. In December 2019, the department upgraded the LDMS system to automate transportation impact fee calculations. The system upgrade included a table of rates approved by the Board of County Commissioners. With the system upgrade, rates are automatically calculated based on two input fields for square footage or number of dwelling units and land use category. There are no independent or quality checks of inputs prior to calculating transportation impact fees.</p> <p>Although the process was automated, the percentage of errors in sampled impact fees increased from 25% in the prior audit to 34% in this follow-up audit.</p> <div data-bbox="581 1073 1430 1390">  <table border="1"> <thead> <tr> <th>Metric</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Rate of Error in Prior Audit</td> <td>25%</td> </tr> <tr> <td>Rate of Error in Current Audit</td> <td>34%</td> </tr> <tr> <td>Increase in Error Rate Since Prior Audit</td> <td>9%</td> </tr> </tbody> </table> </div> <p>As noted above, these issues occurred from incorrect square footage/dwellings, rates, and land use classifications. While we recognize that PEDS Fiscal has automated the process, a significant number of issues occurred which could have been prevented with a secondary review.</p>	Metric	Value	Rate of Error in Prior Audit	25%	Rate of Error in Current Audit	34%	Increase in Error Rate Since Prior Audit	9%
Metric	Value								
Rate of Error in Prior Audit	25%								
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<p>WHAT REMAINS TO BE DONE</p>	<p>The Planning, Environmental, and Development Services Department's management should implement an independent review of all impact fees calculated to identify input errors.</p>								

<p>Recommendation 1C</p>	<p>The Planning, Environmental, and Development Services Department should implement additional procedures to ensure the Alternative Mobility Area (AMA) rate is correctly applied to development within AMA boundaries.</p>
<div data-bbox="232 499 446 674">  <p>FULLY IMPLEMENTED</p> </div>	<p>Effective November 2020, AMA and Non-AMA classifications no longer exist. However, the Board of County Commissioners approved Ordinance No. 2020-31 which created three new fee districts in October 2020. The three fee districts are urban, suburban, and rural. These fee districts are automatically populated in LDMS from GIS based on parcel ID numbers.</p> <p>We reviewed parcel ID numbers and district classifications in LDMS and compared them to the updated transportation impact fee map. For the sample of 32 transportation impact fees selected, all 32 fee districts were classified accurately.</p>
<p>WHAT REMAINS TO BE DONE</p>	<p>No further action required.</p>

<p>Recommendation 1D</p>	<p>The Planning, Environmental, and Development Services Department should collect any identified impact fee underpayments and refund any identified impact fee overpayments.</p>
<p> PARTIALLY IMPLEMENTED</p>	<p>On November 13, 2018, the Board of County Commissioners approved a memorandum on the consent agenda regarding the disposition of underpayments and overpayments identified in the prior audit. According to the memorandum:</p> <ul style="list-style-type: none"> • Eight impact fee underpayments totaling \$30,640.49 should be collected from Orange County Utilities. These amounts were not collected. According to management personnel, they thought the undercharged transportation impact fees had been recovered, but upon further review, the recovery did not happen. • Nine overpaid fees totaling \$72,693 should be refunded. Eight of the nine refunds were paid. The remaining refund of \$49,757 was partially paid as a credit of \$37,844. However, the remaining \$11,913 of the overpayment was never refunded. • The remaining 17 underpaid impact fee deficiencies totaling \$208,612 were written-off. <div data-bbox="1192 877 1443 1171">  <p>\$11,913 Transportation Impact Fees Pending a Refund Since Prior Audit</p> </div>
<p>WHAT REMAINS TO BE DONE</p>	<p>The Planning, Environmental, and Development Services Department should follow the Board of County Commissioners' direction to collect the underpaid transportation impact fees and ensure any overpayments are refunded. In addition, the department should determine whether additional amounts identified in the follow-up audit should be collected or refunded.</p>

<p>Recommendation 2</p>	<p>The Planning, Environmental, and Development Services Department should assess impact fees in accordance with Board policy. In addition, the current practice of assessing impact fees at the retail rate for peripheral buildings located within retail centers should be reviewed. The results of this review should be presented to the Board during the next scheduled Transportation Impact Fee Review. Further, the Committee should not approve impact fee appeals that are contrary to the Code.</p>
<p>  NOT IMPLEMENTED </p>	<p>The Orange County Code was amended and approved by the Board on October 27, 2020, based on the Orange County Transportation Impact Fee Update Study performed.</p> <p>Based on our staff inquiries, the Board Policy from 1991 is still followed regarding charging peripheral buildings within the retail center at a retail rate regardless of land use category. This policy was not incorporated into the current Orange County Code.</p> <p>During our audit period no businesses were charged transportation impact fees in retail centers — similar to the issues identified in the prior audit. If PEDS Fiscal continues to follow the Board Policy from 1991 it would conflict with the current code resulting in incorrect transportation impact fees.</p> <p>We also reviewed the three most current transportation impact fee appeals approved by the Committee. Based on our review, the Committee did not approve any appeals that were contrary to the Code.</p>
<p>WHAT REMAINS TO BE DONE</p>	<p>The Planning, Environmental, and Development Services Department's management should ensure the Orange County Code is updated to clarify that peripheral buildings within a retail center are not assessed at the retail rate.</p>

Recommendation 3	The Planning, Environmental, and Development Services Department should follow the Code's impact fee classifications as it relates to unmanned structures.
 FULLY IMPLEMENTED	<p>In the prior audit, water treatment facilities were categorized as Warehouse or Mini-Warehouse based on a 1996 memo from the County's Planning Division specifying that unmanned structures should be assessed at the lowest possible rate. However, the Code states that unmanned structures and sewage treatment facilities should be classified at the General Light Industrial rate.</p> <p>We did not identify any water treatment facilities assessed during the audit period. However, we reviewed one unmanned structure, which was assessed appropriately as General Light Industrial land use.</p> <p>Additionally, we reviewed four assessments categorized as Warehouse and Mini-Warehouse. We verified that the fees were assessed accurately.</p>
WHAT REMAINS TO BE DONE	No further action required.

APPENDIX – MANAGEMENT RESPONSE



PLANNING, ENVIRONMENTAL & DEVELOPMENT SERVICES DEPARTMENT FISCAL & OPERATIONAL SUPPORT DIVISION

Heather Coons, CPA, Acting Manager
201 S. Rosalind Avenue, 2nd Floor •

Reply To: Post Office Box 1393 • Orlando, Florida 32802-1393

Telephone (407) 836-5810 • FAX (407) 836-0955 • <http://www.orangecountyfl.net>

Transportation Impact Fee Audit Responses 2024

Recommendation 1A

WHAT REMAINS TO BE DONE	<p>The Planning, Environmental, and Development Services Department's management should develop additional procedures to ensure that accurate system data is input to calculate transportation impact fees. Additional procedures should include:</p> <ul style="list-style-type: none">A) Providing additional training to ensure that accurate information is entered into <u>LDMS</u>;B) Evaluating whether additional system input edits can be programmed into LDMS to prevent incompatible land use categories from being selected based on a project's actual square footage; and,C) Implementing an independent review to identify input errors. <p>Management should also refund the remaining overpayments and collect any underpayments.</p>
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Management's Response: Concur

- A) Training sessions have been conducted with staff from the Fiscal and Operational Support division and the Division of Building Safety and will continue to be held annually to ensure accurate data is entered into the system. An Impact Fee Assessment Guide was created for Impact Fee Staff to assist with correct land use selection to ensure consistency when calculating transportation impact fees.
- B) ISS indicated that additional system input edits can be programmed into LDMS to prevent incompatible land use categories from being selected based on a project's actual square footage. This has been added as a project currently scheduled for post-LDMS updates and enhancements.
- C) A second review is now implemented for all completed impact fee assessments for Fiscal and Operational Support division staff to verify the correct land use type was selected. A second review is also implemented by the division of Building Safety to ensure that square footage information from the construction documents match the information that is recorded in system. The Division of Building Safety has started the process to become accredited by the International Accreditation Service (IAS), and part of this effort is to formalize the internal audit of employee performance and data reviews.

The refund for permit B20901260 in the amount of \$405,542.52 was completed in March of 2024. All other refunds have been initiated for the remaining overpayments. The impact fees for all but one of the underpayments identified were recalculated, as those permits had not yet been completed. Permit B20903759 was under charged \$875.49; this amount was collected from reservation account number TCRC-16-08-068-B as it was established for this project by the same parcel owner.

Recommendation 1B

WHAT REMAINS TO BE DONE	The Planning, Environmental, and Development Services Department's management should implement an independent review of all impact fees calculated to identify input errors.
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Management's Response: Concur

- D) A second review is now implemented for all completed impact fee assessments for Fiscal and Operational Support division staff to verify the correct land use type was selected. A second review is also implemented by the division of Building Safety to ensure that square footage information from the construction documents match the information that is recorded in system. The Division of Building Safety has started the process to become accredited by the International Accreditation Service (IAS), and part of this effort is to formalize the internal audit of employee performance and data reviews.

Recommendation 1C, fully implemented; no action required

Recommendation 1D

WHAT REMAINS TO BE DONE	The Planning, Environmental, and Development Services Department should follow the Board of County Commissioners' direction to collect the underpaid transportation impact fees and ensure any overpayments are refunded. In addition, the department should determine whether additional amounts identified in the follow-up audit should be collected or refunded.
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Management's Response: Concur

All impact fee underpayments were collected from Orange County Utilities in October 2023 and the last overpayment identified in the prior audit was refunded in April 2024. Additional items identified in the follow up audit have already been evaluated; corrections to under assessed fees have been made and refunds have been processed to be completed by the end of fiscal year 2025. A follow up review will occur to track the completion of the refunds initiated on a monthly basis until completed.

Recommendation 2

WHAT REMAINS TO BE DONE	The Planning, Environmental, and Development Services Department's management should ensure the Orange County Code is updated to clarify that peripheral buildings within a retail center are not assessed at the retail rate.
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Management's Response: Concur

The practice of assessing impact fees at the retail rate for all businesses located within retail centers was discussed with the County's transportation impact fee consultant as part of the study and code update effort that concluded in 2020. Following those discussions and consistent with the initial audit recommendations, the code update added specific references to the Institute of Transportation Engineers Trip Generation Manual and land use definitions. Our consultant did not advise that further changes to the code were necessary. Based on these definitions, standard industry practice, and consistent with prior board policy direction, staff continue to assess businesses within multi-tenant buildings within shopping centers at the "Land Use: 820 Shopping Center" rate.

The follow-up audit findings introduce a new reference to the 1991 Board Policy memorandum which makes similar statements about mixed-use facilities. However, that memo goes further to specifically state "Peripheral and freestanding buildings are not included." From recent discussions with the audit team, it is the lack of clarity in ITE land use definitions for 820: Shopping Center regarding these peripheral and free-standing buildings, or outparcels, that remains the concern. ITE definitions suggest some of the data within 820: Shopping Center includes the effect of outparcels. Given the limitations on the data, staff conservatively limits the use of 820: Shopping Center to just multi-tenant buildings. Staff continues to assess these single tenant buildings within outparcels at the single use rate generally consistent with industry practice and prior Board direction. However, for the avoidance of doubt, management will ensure that the next code update is explicit as to the assessment of "peripheral and freestanding buildings" within outparcels of shopping centers.

Recommendation 3, fully implemented; no action required

AUDIT SCOPE, PERIOD, AND OBJECTIVE

The scope was limited to the assessment and calculation of transportation impact fees for commercial structures as they relate to the recommendations of Report No. 472. The audit period was January 2023 through August 2023.

The objective of the audit was to determine the implementation status of the previous recommendations from the prior Audit of the Assessment and Calculation of Commercial Transportation Impact Fees (Report No. 472).

METHODOLOGY

To determine the implementation status of the prior recommendations, we:

- Reviewed support to confirm that over/underpayments identified in the prior audit were refunded/recovered.
- For a sample of impact fee payments made during the audit period, we:
 - Verified that transportation impact fee calculation inputs, such as land use type, square footage, dwelling units and rates were accurate compared to source data.
 - Recalculated transportation impact fee assessments.
 - Verified that Transportation Planning Area Types (Urban, Suburban, and Rural) were accurately applied.
- Inquired of management whether businesses near or within retail centers are still assessed at the retail rate regardless of land use category.
- Determined whether the three most recent appeals approved by the County's Impact Fee Committee complied with the Code.