

POLICIES AND PROCEDURES

**FOR THE
ADMINISTRATION
OF THE**

**COUNTY LIQUID FUELS TAX
ACT OF 1931 and Act 44 of 2007**

AND

**THE LIQUID FUELS TAX ACT 655
DATED 1956 AND AS AMENDED**

**Office of Planning
Effective July 1, 2019**

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CHAPTER ONE

1. LIQUID FUELS TAX FUNDS FOR COUNTIES

1.1 GENERAL

This chapter provides county officials with information pertaining to the administration and a basic understanding of the policies, procedures, and requirements for the use of Liquid Fuels Tax funds by counties.

The Pennsylvania Department of Transportation (PennDOT) has regulatory authority for the administration of these funds.

In the event of any discrepancies between this document and the enabling legislation, as amended, the legislation shall govern.

1.2 PURPOSE OF THE ACT

The Liquid Fuels Tax Act of 1931 (the Act), as codified in Title 75 Pennsylvania Consolidated Statutes, Chapter 90, provides all counties that are in compliance with PennDOT guidelines with semiannual allocations in June and December of each year. These allocations must be deposited into a separate fund, from which payments may be made for construction, maintenance, and repair of county roads and bridges.

The Act provides that counties may allocate monies from this fund to their political subdivisions for these same purposes. It also allows the counties to encumber current funds for future road and bridge construction, reconstruction, and maintenance projects.

In addition, the Act provides that payments may be made from this fund for property damages that result from road or bridge construction, certain equipment, and bonds (and sinking fund charges for such bonds) becoming due within the current calendar year.

1.3 ALLOCATION OF FUNDS

The Commonwealth allocates 4.17% of a millage rate as set by Act 89 of 2013 to a special fund known as the Liquid Fuels Tax Fund for distribution to counties.

1.4 ELIGIBILITY TO RECEIVE FUNDS

To qualify for the semiannual Liquid Fuels Tax Fund allocation, a county shall:

- Submit an annual report showing the receipts, expenditures, and encumbrances for the preceding 12 months. (See MS-991 Report of County Liquid Fuels Tax Fund in Section 1.8, Reporting Requirements.)
- Make deposits and payments or expenditures in accordance with the Act. (See Section 1.6, Appropriate Use of Funds.) Failure to do so may result in the county not receiving allocations until such deficiencies are resolved.
- Insure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- Insure resolution of all reimbursements required as a result of audits performed by the Auditor General or monitoring reviews performed by the Department's Financial Consultants.

1.5 DEPOSIT OF FUNDS

Each county must deposit the Liquid Fuels Tax funds it receives into a special fund called the County Liquid Fuels Tax Fund, which may be used only for those purposes permitted by the Act. The only exception to this is explained in Section 1.6.2, Transfer of Monies into the County Liquid Fuels Tax Fund.

1.6 APPROPRIATE USE OF FUNDS

It is extremely important that the monies in the County Liquid Fuels Tax Fund be handled properly, as they are subject to audit by the Pennsylvania Department of the Auditor General. This section describes the proper use of these funds.

1.6.1 Investment of Funds

Monies in the County Liquid Fuels Tax Fund should be invested to earn interest until expended and may be combined with other county funds for investment purposes. However, the principal and its proportionate share of interest must be returned to the County Liquid Fuels Tax Fund and expended in accordance with the Act. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral.

1.6.2 Transfer of Monies into the County Liquid Fuels Tax Fund

When a county lacks enough money in its County Liquid Fuels Tax Fund to meet expenses for its current annual budget for the various highway and bridge purposes, the county may borrow monies (not to exceed the total allocation it will receive from the Liquid Fuels Tax Fund in that current calendar year) and deposit such monies in its County Liquid Fuels Tax Fund. All such loans must be repaid out of the monies in this fund before the end of that current calendar year, with the exception of those counties that have implemented Government Accounting Standards Board Proclamation 34 (GASB 34).

1.6.3 Loans

Proceeds from any loan made to supplement the County Liquid Fuels Tax Fund must be used exclusively for those purposes permitted by the Act. Such loans may not be made for both Liquid Fuels Tax Fund purposes and an unrelated purpose. All loans must comply with the Local Government Debt Act with the exception of the County of Philadelphia. For more information, contact the Pennsylvania Department of Community and Economic Development (DCED) at www.newpa.com or by telephone at 888-223-6837.

1.6.4 Bond Issues

All proceeds from county bond issues made for use by the County Liquid Fuels Tax Fund must be used exclusively for the purposes permitted by the Act and may not be used for an unrelated purpose.

1.6.5 Receipts to the County Liquid Fuels Tax Fund

The Act specifies that the Liquid Fuels Tax funds from the Commonwealth be distributed to the counties in June and December of each calendar year and further requires that a county is subject to a forced distribution if the unencumbered balance exceeds receipts for that calendar year. (See Section 1.10, Forced or Mandatory Distribution of Funds.)

This forces counties to anticipate the amount of the December payment as well as other possible late-year receipts and appropriately encumber these anticipated funds to avoid a forced distribution. County officials should be aware of this potential impact. The Department will work closely with any county faced with this problem to avoid a forced distribution.

Receipts include:

- County Liquid Fuels Tax funds received from the Commonwealth.
- Interest earned on deposited funds.
- Borrowed monies deposited in the fund (to be repaid by the end of calendar year).
- Settlement as a result of damage claims to county roads and bridges constructed or repaired with Liquid Fuels Tax funds.
- Sale of salvageable material and equipment purchased with County Liquid Fuels Tax funds.
- Other receipt sources relating to County Liquid Fuels Tax Fund expenditures, such as reimbursement agreements with PennDOT, another governmental agency, or private entity.
- Receivables for year-end funds due to the county for state reimbursable agreements (should be received within 90 days of year-end).

1.6.6 Expenditure of Funds

There are certain legal and regulatory restrictions on County Liquid Fuels Tax Fund expenditures, which are discussed in this section.

1.6.6.1 Prior Approval Required

County Liquid Fuels Tax Fund monies may not be allocated or expended for construction or reconstruction projects by the county or any of its political subdivisions, without the prior approval of the application, contract, or plans for the proposed expenditure by PennDOT.

1.6.6.2 Completed Work Approval Required

Completed work by a county or one of its political subdivisions must be approved by the Engineering District Municipal Services Representative, by approval of the MS-999, before payments can be made.

1.6.6.3 Acceptable and Unacceptable Expenditures

Examples of acceptable and unacceptable expenditures of Liquid Fuels Tax funds are shown below. These lists are not exhaustive, and in the case of questionable expenditures, contact your District Municipal Services Representative.

Acceptable Expenditures:

1. Construction, reconstruction, maintenance, and repair of public roads/ streets or bridges for which the county or municipality is legally responsible.
2. Costs of property damages resulting from road and/or bridge construction, reconstruction, or maintenance.
3. Purchase of right-of-way for road and/or bridge construction, reconstruction, or maintenance.

4. Compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges.
5. Interest and principal payments on road or bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.
6. Any road or bridge work by order of the Public Utility Commission (PUC).
7. Culverts and drainage structures.
8. Acquisition, maintenance, repair, electrification, and operation of traffic signs and traffic signal control systems at intersections and/or railroad crossings.
9. Maintenance on alleys, ways, and courts in counties, townships, boroughs, and cities provided the county can demonstrate it has a legal responsibility for the alley, way, or court.
10. Street lighting in excess of taxes and bridge and interchange lighting.
11. Minor equipment, equipment rentals, or repair parts for road maintenance vehicles.
12. Road drags and snow fence.
13. Purchase of PennDOT-approved materials.
14. Major road and bridge equipment requiring cost quotes.
15. Salary and benefit costs of road crews or employees performing work on county-owned roads and bridges. The county must document these cost with daily time records (MS-907 or its equivalent), indicating type or location of work performed.
16. County Engineer's salary and benefit costs for road or bridge work.
17. Debris removal from the roadway and its gutters and shoulders.
18. Erection of street name signs, traffic directing signs, and traffic signal control systems.
19. Brush removal to improve sight distance.
20. Lane and crosswalk painting and marking.
21. Cleaning of inlets and culverts.
22. Certain structures such as salt storage sheds or buildings built to house county or municipal owned road equipment.
23. Engineering fees (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
24. Curb ramps to provide access by individuals with disabilities in accordance with the current ADA and PennDOT standards.
25. Driveway grade adjustments due to construction or reconstruction.
26. Liability insurance for road and bridge equipment and vehicles when the named beneficiary is the entity's Liquid Fuels Tax Fund.
27. Administrative costs to a maximum of 10% of that year's total allocation, including benefits, overhead, and other administrative charges for county employees directly involved in activities covered by the Act.

Note: expenditures must be documented and may be paid directly or charged as a markup on direct costs as part of an approved indirect cost allocation plan when the basis of the charge is consistent with charges to other county departments and the level of activity of the fund.

28. Indirect engineering and transportation planning costs.

Note: the total indirect cost that may be expended in any year from the County Liquid Fuels Tax Fund is limited to the 10% administrative allowance (see number 26 above). Direct engineering costs either contracted or in house are not included as either indirect or administrative costs. The reimbursement of prior year indirect costs is not permitted nor is any carryforward of eligibility authorized.

29. Ferry boat operations, where applicable.

30. Appraisal fees for infrastructure assets (as required by GASB 34).

31. Curbs that are part of the drainage system.

32. Payables for year-end county expenses (should be satisfied within 60 days of year-end).

33. Inspection costs associated with roadway and bridge structures such as signs, signals, culverts, drainage structures and bridges.

34. Gasoline with accompanying logs showing the vehicle and appropriate usage.

Unacceptable Expenditures:

1. Parks, municipal buildings, or playgrounds.

2. Police departments, fire departments, or historic, charitable, or civic projects.

3. Private property drives.

4. Sidewalks not involved with road or bridge realignment projects.

5. Sanitary sewers, water lines, or utility costs.

6. Garbage or recycling pickup.

7. Construction projects without prior PennDOT approval.

8. Undocumented payroll expenditures.

9. Gasoline purchases for private vehicles.

10. Retroactive expenditures

11. Expenditures that do not comply with the Act or County Code.

12. Lump sum bidding unless specified under measurement and payment in PUB 408 and/or PUB 447.

1.7 PROCEDURE TO ESTABLISH A CONSTRUCTION/ RECONSTRUCTION AND/OR RESURFACING PROJECT

The following criteria is used to determine when Project Approval is required for work on county and local roads utilizing Liquid Fuels Tax funds, when construction, reconstruction, and/or resurfacing work exceeds one inch or more in depth, as well as other activities.

Criteria To Determine When Project Approval Is Required	
Bituminous surface	A depth of 1" or greater
Concrete surface	50 square yards or more
Widening	A new lane and/or more than two feet on either or both sides of existing roadway
Relocation	All
Bridges	For bridge maintenance/preservation activities, confer with the District Municipal Services Office to determine if a project approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas require project approval.
Other	Reconstruction, such as removal and replacement of one inch or more of existing road material, including base and surface. This includes cold-mill recycling and reclamation work.
Traffic signals and lighting	New installations
Guiderail	New installation location or replacement with upgrade or better technology.
Pipe	New installation location or replacement with a larger size.

Figure 1.a Criteria To Determine When Project Approval Is Required

1. The county officials shall notify the Municipal Services Representative that work has been proposed utilizing Liquid Fuels Tax funds.
2. The county official or engineer shall make an appointment with the Municipal Services Representative to review the proposed work to determine if it fits the above criteria of a "project" requiring a MS-329, Project Approval Form. It is imperative that this be done prior to the project being started to ensure compliance with all requirements.
3. During the review of the work, the Municipal Services Representative may instruct the county officials or engineer on the preparation of the advertisement and proposal/contract.
4. The Municipal Services Representative and/or the county officials or engineer will estimate the cost of the work to be done. For contracts entered on or after January 1, 2014, Section 9023 of the Vehicle Code, 75 Pa. C.S. § 9023 is changed as follows:
§ 9023. APPLICATION OF PREVAILING WAGE ACT TO LOCALLY FUNDED HIGHWAY AND BRIDGE PROJECTS.

- (a) Public work.--For locally funded highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of \$100,000. The term shall not include work performed under a rehabilitation or manpower training program.
- (b) Applicability.--This section shall apply to a contract entered on or after the effective date of this section.
- (c) Definition.--As used in this section, the term "locally funded" means a highway or bridge project that is funded entirely by funds:
 - (1) paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(ii), whether expended by the county or allocated or apportioned to political subdivisions;
 - (2) allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law;
 - (3) made available to municipalities from the highway bridge improvement restricted account within the motor license fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L. 848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;
 - (4) awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);
 - (5) allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or
 - (6) allocated to municipalities under 58 Pa. C.S. (relating to oil and gas).

If the estimated cost exceeds \$100,000, the county officials shall request from the Pennsylvania Department of Labor and Industry guidance as to whether the work is subject to the Pennsylvania Prevailing Wage Act and, if it is, determination of the applicable Pennsylvania prevailing wages. When prevailing wage rates apply, the county shall inform bidders of those rates through the advertisement and the proposal. If the Department of Labor and Industry determines that Prevailing Wage Rates apply to this project, then the actual rates must be advertised as part of the proposal.
- 5. Projects funded with Dirt, Gravel, and Low Volume Road funds that are bid out to contractors in which the estimated cost of the total project (materials, equipment and labor), exceeds prevailing wage limits (currently \$25,000) are subject to provisions of Pennsylvania's Prevailing Wage Act (1961, August 15, P. L. 987, No. 442), 43 P. S. Section 165-1 et seq.

6. If the project cost exceeds \$2,000 and is financed partly with federal funds, the Davis-Bacon Act, a federal statute (40 U.S.C. §§ 3141-3145), may apply. The Davis-Bacon Act applies without regard to the nature of the roadwork being performed. A county has the responsibility of obtaining the Davis-Bacon wage rates, if applicable, and including these rates in the proposal and advertisement for bids. To obtain Davis-Bacon wage rates, the county needs to contact the United States Department of Labor, Wage and Hour Division, which has district offices in Philadelphia, Pittsburgh, and Wilkes-Barre. The Pennsylvania Prevailing Wage Act does not apply to the project if the construction is covered under the Davis-Bacon Act. If the Davis-Bacon Act is applicable, it preempts the Pennsylvania Prevailing Wage Act. Furthermore, the Davis-Bacon Act, if applicable, applies to the entire project, not just the federally-funded component.
7. The county officials will prepare the advertisement and proposal/contract showing reasonable quantities and type of material or type of work. These items should be the same in the advertisement and proposal. The bids shall be opened at the same time and place indicated in the advertisement.
8. The county shall prepare a tabulation of bids and notify the Municipal Services Representative that the bids have been received and a contract awarded. The advertisement and proposal/contract documents will be reviewed by the Municipal Services Representative. Any discrepancies must be resolved and reflected on a revised MS-329, Project Approval form, authorizing the work to begin.
9. A completed and signed MS-329 will be forwarded to the county for future audit purposes. All revisions to the project must be reported to the Municipal Services Representative. A revised MS-329 may be issued based on changes to the scope of work.
10. During the construction, the Municipal Services Representative shall make an effort to visit the project to review the work and the progress of the job.
11. Upon completion of the project, the county officials shall complete Form MS-999, Project Completion Report, and submit this form to the Municipal Services Representative. A final field inspection will be conducted by the Municipal Services Representative. The county may be asked to provide all documentation required by PennDOT Publication 408, Highway Construction Specifications, (e.g., delivery tickets, certifications, bituminous mix designs, calculations for bituminous price adjustments). The MS-999 must reflect the actual quantities used and the total cost of the project. It shall also indicate the distribution of costs to the approved funding sources for the project.
12. Based on the Municipal Services Representative's review that the project was completed in accordance with the scope of work described on the MS-329, the MS-999 will be signed and a copy returned to the county for future audit purposes.

1.8 REQUIRED REPORTS

Each county must submit a set of annual reports showing the receipts and expenditures of all Liquid Fuels Tax funds received from the Commonwealth on forms supplied by the Center for Program Development and Management. These forms and other related forms are listed in Figure 1.b below.

REQUIRED REPORT FORMS			
FORM	TITLE OF FORM	DUE	SUBMIT TO
MS-991	Report of County Liquid Fuels Tax Fund	January 31st	PennDOT Center for Program Development and Management ATTN: Financial and Contract Services Division PO Box 8211 Harrisburg, PA 17105-5211 Email: pdcpdmfinconsult@pa.gov dotGrants: https://www.dot34.state.pa.us/
MS-339	Application for County Aid (Subdivision)	At discretion of County Commissioners	District Municipal Services Office (See Appendix G)
MS-340	Application for Expenditure of County Liquid Fuels Tax Allocations	At project initiation	
MS-999	Project Completion Report	At project completion	

Figure 1.b Required Report Forms

1.8.1 Preparation of Forms

All of the forms listed in Figure 1.b are available through the dotGrants system. Since these forms change from time to time, they are not included in this publication. Detailed instructions for their completion can be obtained from your Municipal Services Representative (see Appendix G). Counties with questions about the dotGrants system should contact PennDOT's web page at <http://www.penndot.gov>. A dotGrants user guide with screenshots and detailed instructions is available on the website.

The MS-991 form is recommended to be prepared throughout the year and is due before January 31st for the preceding calendar year.

1.8.1.1 MS-991 Report of County Liquid Fuels Tax Fund

This form requests such information as:

- Balance in the County Liquid Fuels Tax Fund at the beginning of the report calendar year.
- Receipts which must be itemized and include interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.
- Accounts receivable (to be realized within 60 days of the year end).
- Total Liquid Fuels Tax funds available for expenditure and encumbrances.

- Expenditures from the fund for county-owned roads, highways, and bridges.
- Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).
- Balance in the fund at the close of the report calendar year.
- Encumbrances and unpaid county aid as of the close of the report calendar year.
- Encumbered and unencumbered balances on hand at the close of the report calendar year.

1.8.1.2 MS-992-County Liquid Fuels Tax Fund-Account Expenditures

Expenditures are listed individually, in order by date and voucher number. Required data also includes the recipient, purpose, type of expenditure (e.g., maintenance, repair, construction, administrative, miscellaneous), loans repaid, and grants. PennDOT, PUC, and/or other agreement numbers should be included when applicable. Note: project numbers are assigned by the District Municipal Services Office and are included on the MS-329, Project Approval form.

This form also acts as an approval for the county to encumber Liquid Fuels Tax Funds for the amount of the county aid approved if not distributed to the municipality by the end of the calendar year.

1.8.1.3 MS-993 County Liquid Fuels Tax Fund-Account Schedule of Encumbrances

The following items should be included as encumbrances if they are unpaid:

1. County projects
2. PUC agreements
3. PennDOT agreements

Note: all of the above three items must have agreement numbers assigned on or before December 31st. All items must be unpaid as of December 31st.

List each encumbrance separately with its project or agreement number, PUC order number, date approved, recipient and purpose. Provide the amount of the encumbrance with any additions, amount of encumbrance paid in the current and in prior years, and the remaining balance.

1.8.1.4 MS-339 Application for County Aid (from Political Subdivisions)

Section one of this form is prepared by a municipality requesting county aid on a construction or maintenance project. This is the county's record of the request for funds and certifies that a proper resolution was passed by the municipality requesting aid. Municipalities using the dotGrants shall electronically sign this document. The county shall insure that municipalities that do not use dotGrants have signed and sealed the document.

Section two of the form is completed by the county, which certifies that a proper resolution was passed by the county granting the requested aid and is also a commitment by the county that the municipality will be reimbursed upon satisfactory completion of the MS-999, Project Completion Report. The county shall submit this document using the dotGrants system. Section three is the PennDOT approval section and will be completed by the Municipal Services Representative.

1.8.1.5 MS-340 Application for Expenditure of County Liquid Fuels Tax Allocations

This form is used to encumber County Liquid Fuels Tax funds for viable county projects. It is submitted by the county to the District Municipal Services Office for approval. The form is a record of commitment by the county and serves as an encumbrance against the County Liquid Fuels Tax Fund until paid or canceled.

Bridge projects involving changes of structural design or waterway opening require the prior approval of both the DEP and PennDOT. Encumbrances for bridge bill projects to be subsequently reimbursed by PennDOT should indicate the phase of the work in the scope of work (e.g., Design, Right-of-Way, and Construction). In such cases, the county should contact the District Municipal Services Office for assistance.

1.8.1.6 MS-329 Project Approval Form

This form is completed by a Municipal Services Representative when investigating a project and assigned a number identifying the project. It records the approval of the scope of work and authorizes expenditures for the project from the County Liquid Fuels Tax Fund. The form contains a project number. One copy is given to the county and one copy is retained by the District Municipal Services Office. In projects where a municipality is receiving county aid, that municipality also receives a copy.

1.8.1.7 MS-999 Completion Report

When construction or maintenance project work is completed, the county completes section one and forwards the form to the District Municipal Services Office. All costs associated with the project are included. The District Municipal Services Representative completes section two of the form approving the expenditure of County Liquid Fuels Tax funds, prior to the repayment. (NOTE: A final or partial report shall be completed depending on the status of the project.)

1.9 ENCUMBRANCES FOR VIABLE PROJECTS

The following are the procedures for encumbering viable county and municipal projects (current and future). Viable projects are those eligible for the use of Liquid Fuels Tax Funds. It is recommended that the county use the dotGrants system to submit the required forms.

1.9.1 Viable County Projects

Viable county projects are those that the county expects to be worked on in the near future. An encumbrance can be requested for a project which has been previously approved or a new project. Regardless of the approval status of the project, when a county wishes to encumber a portion of its Liquid Fuels Tax Fund for road or bridge construction, it shall submit the MS-340, Application to Encumber Liquid Fuels Tax Fund. This form is available in a PDF format or electronically in dotGrants. If the PDF version of the form is used, copy be submitted to the Municipal Service Representative for approval must be signed by county officials as indicated on the document.

The steps for approval of the encumbrance are as follows:

1. The county completes all required information on the MS-340 and submits it to their Municipal Service Representative. The MS-340 for Bridge Bill projects to be reimbursed by PennDOT must indicate which phase (e.g. Design, Right-of-Way, Construction) the project is currently in. The portion of the project to be paid from the Liquid Fuels Tax Fund must also be indicated.

2. If the encumbrance request is for a project not previously approved, the Municipal Service Representative will review the project, prepare the MS-329, Project Approval Form, and assign a project number. The Municipal Service Representative will then sign off on the MS-340 indicating approval for the funds to be encumbered. The encumbrance cannot be included on the MS-991 until it has been approved by PennDOT.
3. Each year that encumbrance will be included on the MS-991, the amount encumbered should be shown as the lesser of the amount approved on the Form MS-340 or remaining amount of Liquid Fuels Tax Funds which was approved to be spent on the project.
4. All revisions to the amount to be encumbered are done by submitting a revised MS-340 to the Municipal Service Representative for approval. A revised MS-329 will be completed and issued, as applicable.
5. When monies have been encumbered for a project and the county decides not to continue with the project, the funds must be unencumbered. The county must submit a revised MS-340, decreasing the encumbrance to zero. If money has been expended on any phase of the project, an MS-999, Project Completion Form, must be completed detailing those expenditures.
6. If a county wishes to unencumber the funds, but maintain the project, they must submit a revised MS-340 decreasing the available funds and maintain the MS-329 for the project, ensuring that it remains viable.
7. Upon completion of the project, the MS-999 is to be completed by the county and submitted to the District Municipal Services Office to close out the project.

Encumbrances are to be reviewed each year by the county to ensure that the project remains viable and the county still plans on completing the project.

The District Municipal Services Office should be contacted with any questions regarding these procedures.

1.9.2 Viable Municipal Projects

A municipality may request county aid for a viable project using Form MS-339, Application for County Aid. This form is available on the Department's website as a PDF or may be completed electronically through dotGrants. The county may notify municipalities that it has funds for municipal projects.

The steps for the application and approval of county aid are as follows:

1. The municipality should complete all information in Section 1 of the MS-339. Once completed, the form should be submitted to the county for their review and approval. If the form is being submitted on paper, it must contain original signatures and the municipal seal must be affixed. If the form is submitted via dotGrants, it is not necessary to print and sign. All users of dotGrants have approval for electronic signature authority.
2. The county should complete all information in Section 2 of the MS-339. Once completed, the form should be submitted to the District Municipal Services Office for their review and approval. If the form is being submitted on paper, it must contain original signatures and the County seal must be affixed. If the form is submitted via dotGrants, it is not necessary to print and sign. All users of dotGrants have approval for electronic signature authority.

3. The Municipal Services Representative will sign off on the MS-339 to denote approval of the county aid.

If approved county aid is not paid by the county to the municipality by the end of the calendar year in which it was granted, it should be reported on the MS-991 as Unpaid County Aid. Separate encumbrance paperwork is not required as the MS-339 contains the language to allow the encumbrance of the funds.

The county should not release the approved county aid funds to the municipality until it receives an approved MS-999, Project Completion Form, from either the municipality or District Municipal Services Office.

1.10 FORCED OR MANDATORY DISTRIBUTION OF FUNDS

Allocations of County Liquid Fuels Tax funds by the county to its municipalities is forced or mandatory, if on December 31st the unencumbered balance in the County Liquid Fuels Tax Fund is more than the county's receipts during the preceding twelve months. It is important to note that borrowed and transferred monies are not considered receipts for forced distribution purposes.

1.10.1 Determining a Forced Distribution Amount

In the case of a forced distribution, the County Commissioners shall notify each political subdivision in the county to make application within 90 days for participation in redistribution of their portion of the unencumbered balance. This forced distribution applies only to that portion of the unencumbered balance in excess of fifty percent (50%) of the receipts for the previous twelve months. The county must make such redistribution to the municipalities within 120 days of the date of the report.

For example:

- Assume an unencumbered balance in the January 31st MS-991, Report of County Liquid Fuels Tax Fund, is \$55,000.
- Assume a county's receipts in the twelve-month period immediately preceding submitting the MS-991 were \$50,000.
- Fifty percent of the receipts for the previous twelve months are \$25,000.
- Therefore, the county has \$55,000 less \$25,000 or \$30,000 for mandatory distribution.
- The \$30,000 would be distributed to the municipalities in the county based on their respective portions of the total municipal road mileage and population in the county.

1.10.2 Allocation Method for a Forced Distribution

When a county is faced with a forced distribution, the Department calculates the allocations and notifies the county how much to distribute to each applying municipality based on the formula in Act 655, using the following method.

- A mileage factor is calculated by taking 50% of the amount to be distributed and dividing it by the total mileage of the applying municipalities as determined by the Department, yielding a mileage factor of so many dollars per mile. For example: if the total municipal mileage in the County is 500 miles, the mileage factor is obtained by dividing the \$30,000 by 2 (\$15,000) and dividing this amount by 500 miles, which results in a factor of \$30 per mile.

- A population factor is calculated by taking 50% of the amount to be distributed and dividing it by the total population of the applying municipalities based on official United States Census reports yielding a population factor of so many dollars per person. For example: if the county had a population of 15,000, the remaining forced distribution amount (\$15,000), would be divided by the population, resulting in a per capita amount of \$1.
- The mileage and populations factors are then applied to the mileage and population of each municipality and added together, yielding the amount each applying municipality should receive.

1.11 EXTENDING A COUNTY'S FUND TO TWO YEARS

A county's handling of its County Liquid Fuels Tax Fund is normally on a year-to-year basis. However, in an emergency and with the prior approval of the District Municipal Services Representative, a county may obligate itself for the expenditure of its estimated receipts from the Liquid Fuels Tax Fund for a period of two years. The county will then receive a credit for such expenditures against such subsequent receipts. Except for this, no county may carryover a credit balance against future receipts from the state from one year to the next.

1.12 AUDIT REQUIREMENT

All County Liquid Fuels Tax funds are audited on a biennial basis to review annual reports by the Pennsylvania Department of the Auditor General in accordance with the requirements of Section 403 of the Fiscal Code, 72 P.S. § 403.

CHAPTER TWO

2. LIQUID FUELS TAX FUNDS FOR MUNICIPALITIES

2.1 GENERAL

This chapter provides municipal officials with information pertaining to the administration and a basic understanding of the requirements for the use of Liquid Fuels Tax funds by municipalities.

PennDOT has regulatory authority for the administration of these funds.

In the event of any discrepancies between this document and the enabling legislation, as amended, the legislation shall govern.

2.2 PURPOSE OF THE ACT

The Liquid Fuels Tax Municipal Allocation Law, Act 655, dated June 1, 1956, as amended (Act 655), provides all municipalities other than counties with an annual allocation of Liquid Fuels Tax funds from the Commonwealth's Motor License Fund.

2.3 ALLOCATION OF FUNDS

The amount of this fund for municipalities is based on: 20% of 95.83% of the mileage schedule as per Act 89 (Section 9511(d) of the Vehicle Code); plus 20% of 35 mils of the Oil Company Franchise Tax (Section 9511(c) of the Vehicle Code); plus \$5,000,000 (Act 68 of 1980) as per Section 9301 of the Vehicle Code; plus 12% of 55 mils of the Act 26 Oil Company Franchise Tax; plus 12% of 38.5 mils of the Act 3 Oil Company Franchise Tax; plus \$30,000,000 as per Section 9301(c) of the Vehicle Code.

The allocation of these funds to municipalities is based on the ratios of mileage and population of the municipality to the state totals, and the revenues must be used on the roads and streets for which the municipalities are legally responsible. That is, 50% of the funds are distributed based on a municipality's proportion of local road mileage to the total local road mileage in the state, and 50% on the proportion of a municipality's population to the total population of the state.

A municipality's local road mileage is verified by periodic road surveys conducted by the Department. Municipalities should report mileage changes (MS-990, Road Mileage and Type Report form) to the Municipal Services Representative by September 1st of each year, so that mileage changes can be reviewed and credited to the municipality for the following year.

Population is based on official United States Census reports conducted every ten years; and, if changed by an interim census conducted by the United States Census Bureau, the updated population must be reported to the Director of Center for Program Development and Management on or before December 31st.

2.4 ELIGIBILITY TO RECEIVE FUNDS

To qualify for the annual liquid fuels tax allocation, a municipality shall:

- Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks)
- Make deposits and payments or expenditures in compliance with the Act 655. (See Section 2.6, Appropriate Use of Funds) Failure to do so may result in not receiving allocations from PennDOT until all discrepancies are resolved.

- Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition by March 15th.
- Insure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- Insure resolution of all reimbursements required as a result of audits performed by the Auditor General or monitoring reviews performed by the Department's Financial Consultants.

2.5 DEPOSIT OF FUNDS

Each municipality must deposit the Liquid Fuels Tax funds it receives into a special fund called the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for the various highway and bridge purposes permitted by the Act. In this case, the municipality may borrow monies or transfer General Fund monies to its Municipal Liquid Fuels Tax Fund. (See 2.6.2, Use of Loan or Bond Issue Proceeds.) The borrowed monies may be used only for the highway and bridge purposes outlined in the Act. (See Section 2.7.1, Acceptable Expenditures.)

Deposits may also be made via electronic transfer of Liquid Fuels Tax funds and Turnback Maintenance payments directly to Municipal Liquid Fuels Tax Fund accounts. (Note: Turnback rehabilitation payments shall NOT be deposited into the Liquid Fuels Tax Fund accounts. These payments MUST be deposited into a separate account. See Appendix I.) The necessary forms are available from the dotGrants system or from the District Municipal Services Office. (See Appendix G.) If a concentration account is used, accounting of the funds is required.

2.6 APPROPRIATE USE OF FUNDS

2.6.1 Investment of Funds

All monies in the Liquid Fuels Tax Fund account should be invested to earn interest until expended and may be combined with other municipal funds for investment purposes. However, the municipality must maintain records, the MS-994, Investment Schedule, or its equivalent, that provide a clear audit trail for both the principal and investment income.

2.6.2 Use of Loan or Bond Issue Proceeds

All proceeds of any loan or bond issue made for road or street improvement purposes must be used exclusively for road or street improvement purposes. A loan or bond issue shall not be made for both a road or street improvement purpose and an unrelated purpose. Approval by the District Municipal Services Representative is required to verify that is a liquid fuels eligible expense.

2.6.3 Receipts into the Municipal Liquid Fuels Tax Fund

Receipts include:

1. Liquid Fuels Tax funds received from the Commonwealth.
2. Interest earned on deposited funds.
3. Settlement as a result of damage claims to municipal roads and bridges constructed or repaired with Liquid Fuels Tax funds.
4. Sale of salvageable material and equipment purchased or replaced with Liquid Fuels Tax funds. When doing this, notify the District Municipal Services Representative so it can be noted for future audits.
5. Other receipt sources relating to Liquid Fuels Tax Fund expenditures.

2.7 EXPENDITURE OF FUNDS

Below are examples of acceptable and unacceptable expenditures of Municipal Liquid Fuels Tax funds. These lists are not all-inclusive and, in the case of questionable expenditures, the District Municipal Services Office should be contacted.

2.7.1 Acceptable Expenditures:

Examples of acceptable expenditures for Municipal Liquid Fuels Tax funds are:

1. Construction, reconstruction, maintenance, and repair of public roads or streets, including curb ramps from a road to provide access by individuals with disabilities, bridges, culverts, and drainage structures for which they are legally responsible.

Note: this includes alleys, courts, and ways even though they are not included on the Liquid Fuels Tax Road Inventory, but are the responsibility of the municipality. The municipality must ensure that it is legally responsible for the roadway on which funds are being expended.

2. Advertising costs for competitive bidding requirements of projects, materials, and equipment purchases.
3. Attorney and other legal fees required for road and bridge projects.
4. The purchase of major equipment such as road machinery requiring price quotes or bids according to the applicable municipal code (subject to the limit of 20% of the annual Liquid Fuels Tax Allocation) and the (a) repair, (b) maintenance, and (c) insurance for this equipment when the named insurance beneficiary is the entity's Liquid Fuels Tax Fund.
5. Minor equipment, equipment rentals, and repair parts for road maintenance vehicles.
6. Acquisition, maintenance, repairs, and operation of traffic signs, street signs, traffic signals and control systems, including metric conversion signs, and lane and crosswalk paintings and markings.
7. Electricity for signals and streetlights. Caution: if the municipality levies a tax for street lighting purposes, only costs in excess of this revenue are an allowable charge to the Municipal Liquid Fuels Tax Fund.
8. New products for low volume local roads, with prior approval of the Municipal Services Representative.

9. Small tools, road drags, and snow fences.
10. Debris removal from the roadway and its gutters and shoulders.
11. Brush removal to improve sight distance.
12. Road materials approved by PennDOT bulletins and specifications (Publication 408, Highway Construction Specifications,) and Publication 447, (Approved Products for Lower Volume Local Roads).
13. Salary and benefit costs of road crews or employees performing work on municipal roads. The municipality must thoroughly document these costs with daily time records (MS-907 or its equivalent), indicating type and location of work performed.
14. Contracts for rented equipment needed for roadwork described above.
15. Salt storage buildings. Note: does not include plumbing, heating, or electricity.
16. Bank loan and bond issues used exclusively for highway/bridge purposes including payment of interest and sinking fund charges.
17. Payment of engineering fees (fees in excess of 10% of the liquid fuels eligible costs of the project cost must be documented and justified to the satisfaction of PennDOT).
18. Guiderail and pipe in accordance with PennDOT specifications.
19. Purchases of surplus equipment from the municipal, Commonwealth and federal governments.
20. Purchases of materials and equipment from state contracts, councils of governments, and other purchasing consortiums.
21. Traffic calming activities in accordance with PennDOT Publication 383, Pennsylvania's Traffic Calming Handbook.
22. Traffic and engineering studies in accordance with PennDOT Publication 212, Official Traffic Control Devices, Chapter 212.
23. Computer hardware, software, and/or training, up to \$1,000 annually.
24. Curb ramps to provide access by individuals with disabilities in accordance with the current federal Americans with Disabilities Act (ADA) and PennDOT standards.
25. Non-construction inspection costs associated with roadway and bridge structures such as signs, signals, culverts, drainage structures and bridges.
26. Gasoline, with accompanying logs showing the vehicle and appropriate usage.

2.7.2 Unacceptable Expenditures:

Examples of unacceptable expenditures for Liquid Fuels Tax Fund monies are:

1. Parks, municipal buildings, or playgrounds.
2. Police departments, fire departments, or historic, charitable, or civic projects.
3. Private property drives.
4. Purchases that do not comply with the applicable municipal code.
5. Sanitary sewers, water lines, or utility costs.
6. Administrative expenses, office supplies and furniture, telephones, meeting pay, retainers, dues, or liability insurance.

7. Garbage or recycling pickup.
8. Purchase of right-of-way.
9. Construction and reconstruction projects without prior PennDOT approval.
10. Undocumented payroll expenditures or expenditures not properly contracted.
11. Gasoline purchases for private vehicles or vehicles of other departments or undocumented fuel usage.
12. Heating oil and other building utilities.
13. Repairs to non-road maintenance equipment and vehicles.
14. Retainers, dues, and other prepayments.
15. Apparel (uniforms), except where required by employment agreements.
16. Retroactive expenditures or repayment of other funds for prior period expenditures.
17. Purchases of automobiles.
18. Purchases where a “name brand” is used in the solicitation for quotations and proposals for competitive bids.
19. Curbs and sidewalks (except for those needed to comply with ADA requirements).
20. Lump sum bidding unless specified under measurement and payment in PUB 408 and/or PUB 447.

2.7.3 Other Acceptable Uses of the Fund Repayment of Bond Issues

2.7.3.1 Bank Loans

In addition to repaying bond issues, Act 174, enacted August, 1965, permits the use of Liquid Fuels Tax funds to repay bank loans as well as bond issues which have been incurred by municipalities for road and bridge purposes. Three requirements must be met:

1. All loans must comply with the Local Government Debt Act with the exception of loans incurred by the County of Philadelphia. For more information, contact the Pennsylvania Department of Community and Economic Development (DCED) at www.newpa.com or by telephone at 888-223-6837.
2. Bank loans or bond issues must be used exclusively for highway purposes.
3. All proposed projects must have PennDOT’s prior approval.

All such projects must be reported on the MS-329, Project Approval form and/or MS-339, Application for County Aid form, showing items such as the location, type of work, and estimated cost. In addition, if the job is to be financed wholly or in part by borrowing, it must be clearly stated in the remarks portion of these forms.

If the project is to be done by contract, the usual supporting data, such as proof of advertising, tabulations of bids and contracts, including bonds, must be available to Municipal Services Representatives, state, and local auditors. In subsequent years, two copies of MS-999, Project Completion Report, must be submitted to cover repayments. This procedure should continue until the final repayment has been made.

2.8 PROCEDURE TO ESTABLISH A CONSTRUCTION/ RECONSTRUCTION AND/OR RESURFACING PROJECT

The following criteria is used to determine when Project Approval is required for work on local roads utilizing Liquid Fuels Tax funds, when construction, reconstruction, and/or resurfacing work exceeds one inch or more in depth as well as other activities.

Criteria To Determine When Project Approval Is Required	
Bituminous surface	A depth of 1" or greater
Concrete surface	50 square yards or more
Widening	A new lane and/or more than two feet on either or both sides of existing roadway
Relocation	All
Bridges	For bridge maintenance/preservation activities, confer with the District Municipal Services Office to determine if a project approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas require project approval.
Other	Reconstruction, such as removal and replacement of one inch or more of existing road material, including base and surface. This includes cold-mill recycling and reclamation work.
Traffic signals and lighting	New installations
Guiderail	New installation location or replacement with upgrade or better technology.
Pipe	New installation location or replacement with a larger size.

Figure 2.a Criteria to Determine When Project Approval Is Required

1. The municipal officials shall notify the Municipal Services Representative that work has been proposed utilizing Liquid Fuels Tax funds.
2. The municipal official or engineer shall make an appointment with the Municipal Services Representative to review the proposed work to determine if it fits the above criteria of a "project" requiring a MS-329, Project Approval Form. It is highly recommended that this be done prior to the start of the project to ensure compliance with all requirements.
3. During the review of the work, the Municipal Services Representative may instruct the local officials or engineer on the preparation of the advertisement and proposal/contract.
4. The Municipal Services Representative and/or the county officials or engineer will estimate the cost of the work to be done. For contracts entered on or after January 1, 2014, Section 9023 of the Vehicle Code, 75 Pa. C.S. § 9023 is changed as follows:

§ 9023. APPLICATION OF PREVAILING WAGE ACT TO LOCALLY FUNDED HIGHWAY AND BRIDGE PROJECTS.

- (a) Public work.--For locally funded highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania prevailing wage act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of \$100,000. The term shall not include work performed under a rehabilitation or manpower training program.
- (b) Applicability.--This section shall apply to a contract entered on or after the effective date of this section.
- (c) Definition.--As used in this section, the term "locally funded" means a highway or bridge project that is funded entirely by funds:
 - (1) paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(ii), whether expended by the county or allocated or apportioned to political subdivisions;
 - (2) allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law;
 - (3) made available to municipalities from the highway bridge improvement restricted account within the motor license fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L. 848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;
 - (4) awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);
 - (5) allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or
 - (6) allocated to municipalities under 58 Pa. C.S. (relating to oil and gas).

If the estimated cost exceeds \$100,000, the municipal officials shall request from the Pennsylvania Department of Labor and Industry guidance as to whether the work is subject to the Pennsylvania Prevailing Wage Act and, if it is, determination of the applicable Pennsylvania prevailing wages. When prevailing wage rates apply, the county shall inform bidders of those rates through the advertisement and the proposal. If the Department of Labor and Industry determines that Prevailing Wage Rates apply to this project, then the actual rates must be advertised as part of the proposal.

- 5. Projects funded with Dirt, Gravel, and Low Volume Road funds that are bid out to contractors in which the estimated cost of the total project (materials, equipment and labor), exceeds prevailing wage limits (currently \$25,000) are subject to provisions of Pennsylvania's Prevailing Wage Act (1961, August 15, P. L. 987, No. 442), 43 P. S. Section 165-1 et seq.

6. If the project cost exceeds \$2,000 and is financed partly with federal funds, the Davis-Bacon Act, a federal statute (40 U.S.C. §§ 3141-3145), may apply. The Davis-Bacon Act, if applicable, applies without regard to the nature of the roadwork being performed. A municipality has the responsibility of obtaining the Davis-Bacon wage rates, if applicable, and including these rates in the proposal and advertisement for bids. To obtain Davis-Bacon wage rates, the municipality needs to contact the United States Department of Labor, Wage and Hour Division, which has the district offices in Philadelphia, Pittsburgh, and Wilkes-Barre. The Pennsylvania Prevailing Wage Act does not apply to the project if the construction is covered under the Davis-Bacon Act. If the Davis-Bacon Act is applicable, it preempts the Pennsylvania Prevailing Wage Act. Furthermore, the Davis-Bacon Act, if applicable, applies to the entire project, not just the federally-funded component.
7. The local officials will prepare the advertisement and proposal/contract showing reasonable quantities and type of material or type of work. These items should be the same in the advertisement and proposal. The bids shall be opened at the time and place indicated in the advertisement.
8. The municipality shall prepare a tabulation of bids and notify the Municipal Services Representative that the bids have been received and a contract awarded. The advertisement and proposal/contract documents will be reviewed by the Municipal Services Representative. Any discrepancies must be resolved and reflected on a revised MS-329, Project Approval form, authorizing the work to begin.
9. A completed and signed MS-329, Project Approval form, will be forwarded to the municipality for future audit purposes. All revisions to the project must be reported to the Municipal Services Representative. A revised MS-329 may be issued based on the scope of work.
10. During the construction, the Municipal Services Representative shall make an effort to visit the project to review the work and the progress of the job.
11. Upon completion of the project, the local officials shall complete MS-999, Project Completion Report, and submit this form to the Municipal Services Representatives. A final field inspection will be conducted by the Municipal Services Representative. The municipality may be asked to provide all documentation required by PennDOT Publication 408, Highway Construction Specifications (e.g., delivery tickets, certifications, bituminous mix designs, and calculations for bituminous price adjustments). The MS-999 must reflect the actual quantities used and the total cost of the project. It shall also indicate the distribution of costs to the approved funding sources for the project.
12. Based on the Municipal Services Representative's review that the project was completed in accordance with the scope of work described on the MS-329, the MS-999 will be signed and a copy returned to the municipality for future audit purposes.

2.9 REQUIRED REPORTS

Annually, each municipality must submit a set of reports showing the receipts and expenditures of all Liquid Fuels Tax Funds received from the Commonwealth on forms supplied by the Department of Transportation. These forms and their due dates are shown on Figure 2-b below. One copy of each report shall be forwarded to the Center for Program Development and Management by the due date indicated, and these must be accurate and approved by the District Municipal Services Representative.

REQUIRED REPORT FORMS			
FORM	TITLE OF FORM	DUE	SUBMIT TO
MS-965	Actual Use Report of State Funds	January 31st	District Municipal Services Office (See Appendix G)
MS-339	Application for County Aid (Subdivision)	At discretion of County Commissioners	
MS-999	Project Completion Report	At project completion	

Figure 2.b Required Report Forms

A partial MS-999 report is required if Liquid Fuel funds are expended in the year but the project carries over to the next year.

2.10 PREPARATION OF FORMS

Most municipalities and all counties shifted to the electronic submission of the required PennDOT forms some time ago. PennDOT now hosts a “dotGrants” web-based submission site that is the preferred method for the submission of forms. A dotGrants user guide with screenshots and detailed instructions is available on the PennDOT web page at <http://www.penndot.gov>. By using this site, and submitting by the due date, your municipality can be assured of receiving on-time and accurate payments. Contact your District Municipal Services Office to learn more about dotGrants. Since the forms listed in Figure 2.b change from time to time, they are not included in this publication. Only their general purpose and use are described below. Detailed instructions for their completion can be obtained from the Center for Program Development and Management or the District Municipal Services Office. These must be accurate and approved by the District Municipal Services Representative.

2.10.1 MS-965 Actual Use Report of State Funds

This form is divided into six sections:

Section 1 is a summary of expenditures from the Record of Checks form, broken down by the established budget items for the State Fund account.

Section 2 provides prior year ending balance, receipts, expenditures, and ending balance data for the year being reported.

Section 3 provides information necessary to assure major equipment purchases do not exceed the statutory limitation for these purchases (20% of the annual allocation) and verification of the carryover of the unused equipment allocation.

Section 4 is the Municipal Planned Use Report for the next fiscal year that includes carryover, estimated allocations, budgeted amounts for budget items 430 to 439 from the General Fund (this can be a lump sum, detail by item is not required) and tax levies for roads and general municipal purposes and the corresponding millage or other source.

Section 5 is used to report in detail Miscellaneous Receipts such as sale of equipment, reimbursement of funds reported in section two.

Section 6 provides for certification of bonding for the entity's Secretary/Treasurer, contact information and signatures as required by the various municipal codes.

2.10.2 MS-965S Record of Checks State Fund Account

This form records all checks issued (including voided checks) in check number sequence from the State Fund checking account, only checks, not invoices, need to be accounted for. The following information shall be provided for each check issued:

- payee
- project number
- net amount of check
- check number and date
- budget item number and detail
- total amount distributed

2.10.3 MS-339 Application for County Aid (Subdivision) and MS-999 Project Completion Report

MS-339 Application for County Aid (from Political Subdivisions)

Section one of this form is prepared by a municipality requesting county aid on a construction or maintenance project. This is the county's record of the request for funds and certifies that a proper resolution was passed by the municipality requesting aid.

Municipalities using the dotGrants shall electronically sign this document. The county shall insure that municipalities that don't use dotGrants have signed and sealed the document. Payments to be reimbursed for County Aid are only to be made from the General Fund and not from Liquid Fuels.

Section two of the form is completed by the county, which certifies that a proper resolution was passed by the county granting the requested aid and is also a commitment by the county that the municipality will be reimbursed upon satisfactory completion of the MS-999, Project Completion Report. The municipality shall submit this document using the dotGrants system.

Section three is the PennDOT approval section and will be completed by the Municipal Services Representative.

MS-999 Completion Report

When construction or maintenance project work is completed, the municipality completes section one and forwards the form to the District Municipal Services Office. All costs associated with the project are included. Municipal Services Representatives complete section two of the form approving the expenditure of Liquid Fuels Tax funds.

2.11 AUDIT REQUIREMENT

All Municipal Liquid Fuels Tax Funds are audited by the Pennsylvania Department of The Auditor General in accordance with the requirements of Section 403 of the Fiscal Code, 72 P.S. § 403.

2.12 PREVAILING WAGES

Pennsylvania Prevailing Wage Act (1961, Aug. 15, P.L.; 43 P.S. 165) and amended in Act 89 of 2013:

Construction projects (construction, reconstruction, demolition, alteration, and/or repair work other than maintenance work) financed by a municipality where the estimated cost of the total project is at least \$100,000.00 require Pennsylvania prevailing wages under the Pennsylvania Prevailing Wage Act, Act of August 15, 1961, P.L. 987, No. 442, as amended, 43 P.S. §§ 165-1 through 165-17, and Act 89 of 2013, and the regulations issued under its authority at 34 Pa. Code §§ 9.101-9.112. The municipality shall be responsible for obtaining correct guidance from the Pennsylvania Department of Labor and Industry on whether Pennsylvania prevailing wages are applicable to the work performed on such a project. If they are in fact applicable to the project, the municipality is responsible for obtaining the rates from the Department of Labor and Industry and including them in the contracts, notice for bids and advertisements, in accordance with 43 P.S. § 154-4 and 34 Pa. Code § 9.104.

The municipality can obtain prevailing wage rates and information about compliance through the following:

Bureau of Labor Law Compliance
1301 Labor & Industry Building
651 Boas Street
Harrisburg, PA 17120-0019
717.705.7256
E-mail: ra-li-slmr-llc@state.pa.us
Website: <http://www.dli.pa.gov>

(Keywords: "Prevailing Wage DeterminationRequests")

The municipality shall be responsible for maintaining the documentation, particularly certified payrolls, showing compliance with the Prevailing Wage Act.

Federal Prevailing Wages – Davis-Bacon Act (40 U.S.C. §§ 3141-3145)

If the project cost exceeds \$2,000 and is being financed partly with federal funds, it may require payment of federal prevailing wages, in accordance with the Davis-Bacon Act, 40 U.S.C. §§ 3141 through 3145, without regard to the nature of the roadwork being performed. A municipality has the responsibility of obtaining the Davis-Bacon wage rates, if applicable, and including these rates in the proposal and advertisement for bids. To obtain Davis-Bacon wage rates, the municipality needs to contact the United States Department of Labor, Wage and Hour Division, which has district offices in Philadelphia, Pittsburgh, and Wilkes-Barre. The Pennsylvania Prevailing Wage Act does not apply to the project if the work is covered under the Davis-Bacon Act. 43 P.S. § 165-15. If the Davis-Bacon Act is applicable, it preempts the Pennsylvania Prevailing Wage Act. Furthermore, the Davis-Bacon Act, if applicable, applies to the entire project, not just the federally-funded components.

CHAPTER THREE

3. LOCAL BRIDGE PROGRAM

3.1 GENERAL

When it is necessary to construct or reconstruct a municipal owned bridge 8 feet or longer or make any changes to an existing bridge structure, the procedures provided in this chapter are required before any work is performed. Changes include, but are not limited to, the floor system, abutments, piers, wing walls, or waterway areas, or in any way affect the carrying capacity of the structure. To ensure compliance and project approval, contact the District Municipal Services Office. Failure to do so may result in disapproval of the use of Liquid Fuels Tax funds for that particular project. PennDOT has regulatory authority for the administration of these funds. For further clarification of the local bridge program delivery process refer to PennDOT Publication 740, Local Bridge Program Delivery Guide. In the event of any discrepancies between this document and the enabling legislation, as amended, the legislation shall govern.

3.2 BIDDING REQUIREMENTS AND CONDITIONS

Bidding must be on a competitive basis, in compliance with the applicable municipal codes and in accordance with PennDOT's regulations relating to liquid fuels tax funds codified in Title 67 of the Pennsylvania Code, Chapter 449 (See Appendix D).

3.3 PUBLIC TRANSPORTATION ROUTES

The operation of any fixed route public transportation (rail or trolley bus) on the structure should be reported as part of the preliminary plan. Upon receipt of the plan, the District Office should notify the Bureau of Public Transportation and the mass transit carrier to determine the necessary rerouting of traffic.

3.4 PLAN APPROVAL FOR NEW CONSTRUCTION

The District Bridge Engineer will review and approve the plans "For Structural Adequacy Only" for new bridges as submitted by the municipality.

3.4.1 Permits and Approvals

The municipality's engineer will determine and obtain any applicable permits, including the appropriate waterway permit from the Pennsylvania Department of Environmental Protection (DEP). Required hydrologic and hydraulic design criteria are outlined in PennDOT Publication 13M, Design Manual, Part 2, Highway Design, Chapter 10. If required, the engineer should also obtain the approval of the Public Utility Commission, Army Corps of Engineers, DEP and the Fish and Boat Commission, and others as necessary. (See also PennDOT Publication 10, Design Manual, Part 1A, Transportation Project Development Process.)

3.4.2 On-Site Review

Prior to submittal of the waterway permit request to the DEP, the municipality must contact the District Bridge Engineer and request an on-site review of the proposed structure to discuss type, size, and location.

3.4.3 Submission of Documents

Upon approval of the waterway permit by the DEP, the municipality shall submit type, size, location, and foundation proposal along with one copy of Form D-4274 (Application for Bridge Plan Approval) to the District Executive, attention of the District Bridge Engineer. The responsibility of assigning the Bridge Plan Application Approval (BPAA) number resides with each District. The Bridge Management System (BMS) number may be used for the BPAA number. However, the District can determine whatever methodology works best for them. The District Bridge Engineer will assign a BPAA Number (Structure Number) for this form. Deviations from PennDOT Publication 13M (DM-2) and 15M (DM-4), will be subject to approval by the District Executive.

Future development of the current S-number system for state owned bridges will incorporate a numbering system for local owned bridges. The District Bridge Unit will be notified when the update is made and will adjust their number assignment program as necessary.

3.4.4 Proceed with Design

The municipality or its agent shall proceed to design the structure accordingly and shall prepare plans conforming to current PennDOT criteria and specifications.

3.4.5 Completion of Design

Upon completion, the municipality or its agent will submit two copies of the updated Form D-4274 "Application for Bridge Plan Approval", and two copies of the Design Plans, Computations and Special Provisions to the District Bridge Engineer for final approval. Upon approval of the Design Plans a copy of the approval letter and an updated Form D-4274 will be forwarded to the municipality, its engineer, and the District Municipal Services Representative.

3.5 SHOP DRAWINGS

All applicable shop drawings, as required in the PennDOT Publication 15M, Design Manual, Part 4, Structures, will be submitted by to the municipality's engineer for approval. Prints of the approved plans shall accompany the submission. Upon completion of the review, the approved shop drawings will be returned to the fabricator. A copy of the engineer's approved shop drawings and approval letter will be sent to the District Bridge Engineer and to the municipality and uploaded into the Bridge Management System when the bridge is activated in BMS2.

3.6 SHOP INSPECTION

Please refer to Publication 39 for any shop inspection information.

3.7 REVISIONS TO AN APPROVED PLAN

Any revisions to the approved plan shall also be subject to preapproval "For Structural Adequacy Only" by the District Bridge Engineer.

3.8 INSPECTION OF WORK

Periodic inspections of municipal bridge construction and/or reconstruction, including rehabilitation of existing structures, are the responsibility of the municipality's engineer. The municipality's engineer also completes the Form CS-430, "Notification of Inspection," and submits the form to the District Bridge Engineer.

Cursory inspections may be performed by qualified inspectors from the PennDOT District Office.

The municipality's engineer will be required to certify that structures 8 feet in length or greater have been built in accordance with the Plans and Specifications submitted and approved "for structural adequacy only" by the Department.

For inspection and material testing, follow the procedures outlined in Publication 39, Procedures for the Administration of Municipal Projects. All construction procedures and materials must comply with the requirements of the current Publication 408, Highway Construction Specifications, Bulletin 15, and/or other required bulletins.

Failure to follow all or part of the Plan Approval Process may result in disapproval of the use of Liquid Fuels Tax funds on the project.

3.9 CERTIFICATION OF WORK

The municipality's engineer must certify that structure has been built in accordance with the Plans and Specifications submitted to PennDOT for approval "for structural adequacy only". Form CS-4171, "Certificate of Compliance," must be properly completed and must accompany each shipment of material delivered to the project.

3.10 PLAN APPROVAL FOR REHABILITATED STRUCTURES

Follow the procedures in Sections 3.4, Plan Approval for New Construction, and the following sections.

3.10.1 Waterway Approval

The drainage area and hydrologic design criteria, discussed in Section 3.4.1, Waterway Approval, may not be required. Consult the local office of the DEP for compliance.

3.10.2 Use of Liquid Fuels Tax Funds

Contact the local Municipal Services Representative at the beginning of the project for directions on Liquid Fuels Tax Fund expenditures.

CHAPTER FOUR

4. ACT 44 FOR COUNTY MAINTENANCE, CONSTRUCTION AND REPAIR OF COUNTY-OWNED BRIDGES

4.1 GENERAL

This chapter provides county officials with information pertaining to the administration and a basic understanding of the policies, procedures, and requirements for the use of funds allocated under Act 44 of 2007 (Act 44) by counties and amended by Act 89 of 2013.

The Pennsylvania Department of Transportation (PennDOT) has regulatory authority for the administration of these funds.

In the event of any discrepancies between this document and the enabling legislation, as amended, the legislation shall govern.

4.2 PURPOSE OF THE ACT

Act 44 provides for an annual allocation to all counties that own public bridges. These allocations are made on the first business day in December of every year.

The allocations must be deposited into a separate fund (not the County Liquid Fuels Fund), from which payments may be made for the maintenance and construction of county-owned bridges.

4.3 ALLOCATION OF FUNDS

As provided in 75 Pa. C.S. § 8915.6(b)(2), and as of July 1, 2014, § 9301(b), the Commonwealth allocates the funds available through Act 44 to counties based on the ratio of the square footage of deck area of a county's county-owned bridges to the total square footage of deck area of county-owned bridges throughout this Commonwealth. The amount of square footage used shall be that reported as part of the National Bridge Inspection Standards Program.

The amount a county receives is based on its percentage of the total available for allocation using the ratio described above.

The allocation is calculated once annually and is distributed by the PennDOT Center for Program Development and Management to the counties in December.

4.4 ELIGIBILITY TO RECEIVE FUNDS

In order to receive Act 44 funds as scheduled, each county must submit an annual report showing the receipts and expenditures for the preceding 12 months. (See Section 4.8, Reporting Requirements.) The use of the funds must be in compliance with the Act. (See Section 4.6, Appropriate Use of Funds.) Failure to do so may result in the county's not receiving allocations until such deficiencies are resolved.

4.5 DEPOSIT OF FUNDS

Each county must deposit the Act 44 funds it receives into a special fund called the County Act 44 Fund, which may be used only for those purposes permitted by the Act. The only exception to this is explained in Section 4.6.2, Transfer of Monies into the County Act 44 Fund. (NOTE: Act 44 and Act 89 funds may be deposited in a single account. However, the county must account for these funds independently for auditing.)

4.6 APPROPRIATE USE OF FUNDS

It is extremely important that the monies in the County Act 44 Fund be handled properly, as they are subject to audit by the Pennsylvania Department of the Auditor General. This section describes the proper use of these funds.

4.6.1 Investment of Funds

Monies in the County Act 44 Fund should be invested to earn interest until expended and may be combined with other county funds for investment purposes. However, the principal and its proportionate share of interest must be returned to the County Act 44 Fund and expended in accordance with the Act. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral.

4.6.2 Transfer of Monies into the County Act 44 Fund

When a county lacks enough money in its County Act 44 Fund to meet expenses for its current annual budget for the various bridge purposes, the county may borrow monies (not to exceed the total allocation it will receive from the Act 44 Fund in that current calendar year) and deposit such monies in its County Act 44 Fund. All such loans must be repaid out of the monies in this fund before the end of that current calendar year, with the exception of those counties that have implemented Government Accounting Standards Board Proclamation 34 (GASB 34).

4.6.3 Loans

Proceeds from any loan made to supplement the County Act 44 Fund must be used exclusively for those purposes permitted by the Act. Such loans may not be made for both Act 44 Fund purposes and an unrelated purpose. All loans must comply with the Local Government Debt Act with the exception of the County of Philadelphia. For more information, contact the Pennsylvania Department of Community and Economic Development (DCED) at www.newpa.com or by telephone at 888-223-6837.

4.6.4 Bond Issues

All proceeds from county bond issues made for use by the County Act 44 Fund must be used exclusively for the purposes permitted by the Act and may not be used for an unrelated purpose.

4.6.5 Receipts to the County Act 44 Fund

The Act specifies that the Commonwealth shall distribute the Act 44 funds to the counties annually. This annual distribution occurs in December.

Receipts include:

- County Act 44 funds received from the Commonwealth.
- Interest earned on deposited funds.
- Borrowed monies deposited in the fund (to be repaid by the end of calendar year).
- Settlement as a result of damage claims to county bridges constructed or repaired with County Act 44 funds.
- Sale of salvageable material and equipment purchased with County Act 44 funds.
- Other receipt sources relating to County Act 44 Fund expenditures, such as reimbursement agreements with PennDOT, another governmental agency, or private entity.
- Receivables for year-end funds due to the county for state reimbursable agreements (should be received within 90 days of year-end).

4.6.6 Expenditure of Funds

There are certain legal and regulatory restrictions on County Act 44 Fund expenditures, which are discussed in this section.

4.6.6.1 Prior Approval Required

County Act 44 Fund monies may not be allocated or expended for construction or reconstruction projects by the county without the prior approval of the application, contract, or plans for the proposed expenditure by PennDOT (Figure 4.a). In addition, any equipment whose value would require price quotes according to County Code must be preapproved by PennDOT prior to purchase.

4.6.6.2 Completed Work Approval Required

Completed work by a county must be approved by the District Municipal Services Representative before payments can be made.

4.6.6.3 Acceptable and Unacceptable Expenditures

Examples of acceptable and unacceptable expenditures of County Act 44 funds are shown below. These lists are not exhaustive; and, in the case of questionable expenditures, contact your local Municipal Services Representative.

Acceptable Expenditures:

1. Construction, reconstruction, maintenance, and repair of public bridges for which the county is legally responsible.
2. Interest and principal payments on bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.
3. Any work on county owned bridges by order of the Public Utility Commission (PUC).
4. Minor equipment, equipment rentals, or repair parts for equipment used in bridge maintenance and construction (that portion of the total calculated to be relevant to bridge work only. Documentation must be available for audit.) Value must be under that which requires price quotes per the County Code.
5. Purchase of PennDOT-approved materials needed for bridge work.
6. Major bridge equipment, which is equipment costs in excess of the amount which requires price quotes per the County Code. (That portion of the total calculated to be relevant to bridge work only. Documentation must be available for audit). Requires prior District Municipal Services Office approval and must be documented on an MS-329.
7. County Engineer's salary and benefit costs for bridge work (that portion of the total calculated to be relevant to bridge work only. Documentation must be available for audit).
8. Engineering fees related to bridge work (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
9. Liability insurance for bridge equipment and vehicles when the named beneficiary is the entity's Act 44 Fund.
10. Payables for year-end county bridge expenses (should be satisfied within 60 days of year-end).
11. Inspection costs associated with bridges.
12. Purchase of right-of-way for bridge construction, reconstruction, or maintenance.

Unacceptable Expenditures:

1. County- or municipal-owned roadways.
2. Non-county-owned bridges.
3. Parks, municipal buildings, or playgrounds.
4. Police departments, fire departments, or historic, charitable, or civic projects.
5. Private property drives.
6. Sidewalks not involved with bridge realignment projects.
7. Sanitary sewers, water lines, or utility costs.
8. Garbage or recycling pickup.
9. Construction projects without prior PennDOT approval.
10. Undocumented payroll expenditures.
11. Gasoline purchases for private vehicles.
12. Retroactive expenditures
13. Expenditures that do not comply with Act 44 or the County Code
14. Lump sum bidding unless specified under measurement and payment in PUB 408 and/or PUB 447.

4.7 PROCEDURE TO ESTABLISH A PROJECT

The criteria appearing in Figure 4.a below are used to determine when Project Approval is required for work on County owned bridges utilizing Act 44 funds.

Criteria To Determine When Project Approval Is Required	
Bridges	For bridge maintenance/preservation activities, confer with a District Municipal Services Representative to determine if a project approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas require project approval.

Figure 4.a Criteria To Determine When Project Approval Is Required

Process for Obtaining Project Approval

1. The county officials shall notify the Municipal Services Representative that work has been proposed utilizing Act 44 funds.
2. The county officials or engineer shall make an appointment with the Municipal Services Representative to review the proposed work to determine if it fits the above criteria of a “project” requiring a MS-329, Project Approval Form. It is imperative that this be done prior to the project’s being started to ensure compliance with all requirements.

3. During the review of the work, the Municipal Services Representative may instruct the local officials or engineer on the preparation of the advertisement and proposal/contract.
4. The Municipal Services Representative and/or the county officials or engineer will estimate the cost of the work to be done. For contracts entered on or after January 1, 2014, Section 9023 of the Vehicle Code, 75 Pa. C.S. § 9023 is changed as follows:

§ 9023. APPLICATION OF PREVAILING WAGE ACT TO LOCALLY FUNDED HIGHWAY AND BRIDGE PROJECTS.

- (a) Public work.-- For locally funded highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of \$100,000. The term shall not include work performed under a rehabilitation or manpower training program.
- (b) Applicability.--This section shall apply to a contract entered on or after the effective date of this section.
- (c) Definition.--As used in this section, the term "locally funded" means a highway or bridge project that is funded entirely by funds:
 - (1) paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(ii), whether expended by the county or allocated or apportioned to political subdivisions;
 - (2) allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law;
 - (3) made available to municipalities from the highway bridge improvement restricted account within the motor license fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L. 848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;
 - (4) awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);
 - (5) allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or
 - (6) allocated to municipalities under 58 Pa. C.S. (relating to oil and gas).

If the estimated cost exceeds \$100,000, the county officials shall request from the Pennsylvania Department of Labor and Industry guidance as to whether the work is subject to the Pennsylvania Prevailing Wage Act and, if it is, determination of the applicable Pennsylvania prevailing wages. When prevailing wage rates apply, the county shall inform bidders of those rates through the advertisement and the proposal. If the Department of Labor and Industry determines that Prevailing Wage Rates apply to this project, then the actual rates must be advertised as part of the proposal.

5. Projects funded with Dirt, Gravel, and Low Volume Road funds that are bid out to contractors in which the estimated cost of the total project (materials, equipment and labor), exceeds prevailing wage limits (currently \$25,000) are subject to provisions of Pennsylvania's Prevailing Wage Act (1961, August 15, P. L. 987, No. 442), 43 P. S. Section 165-1 et seq.
6. If the project cost exceeds \$2,000 and is financed partly with federal funds, the Davis-Bacon Act, a federal statute (40 U.S.C. §§ 3141-3145), may apply. The Davis-Bacon Act applies without regard to the nature of the work being performed. A county has the responsibility of obtaining the Davis-Bacon wage rates, if applicable, and including these rates in the proposal and advertisement for bids. To obtain Davis-Bacon wage rates, the county needs to contact the United States Department of Labor, Wage and Hour Division, which has district offices in Philadelphia, Pittsburgh, and Wilkes-Barre. The Pennsylvania Prevailing Wage Act does not apply to the project if the construction is covered under the Davis-Bacon Act. If the Davis-Bacon Act is applicable, it preempts the Pennsylvania Prevailing Wage Act. Furthermore, the Davis-Bacon Act, if applicable, applies to the entire project, not just the federally-funded component.
7. The county officials will prepare the advertisement and proposal/contract showing reasonable quantities and type of material or type of work. These items should be the same in the advertisement and proposal. The bids shall be opened at the same time and place indicated in the advertisement.
8. The county shall prepare a tabulation of bids and notify the Municipal Services Representative that the bids have been received and a contract awarded. The advertisement and proposal/contract documents will be reviewed by the Municipal Services Representative. Any discrepancies must be resolved and reflected on a revised MS-329, Project Approval Form, authorizing the work to begin.
9. A completed and signed MS-329 will be forwarded to the county for future audit purposes. All revisions to the project must be reported to the Municipal Services Representative. A revised MS-329 may be issued based on changes to the scope of work.
10. During the construction, the Municipal Services Representative shall make an effort to visit the project to review the work and the progress of the job.
11. Upon completion of the project, the county officials shall complete Form MS-999, Project Completion Report, and submit this form to the Municipal Services Representative. A final field inspection will be conducted by the

Municipal Services Representative. The county may be asked to provide all documentation required by PennDOT Publication 408, Highway Construction Specifications, (e.g., delivery tickets, certifications, bituminous mix designs, calculations for bituminous price adjustments). The MS-999 must reflect the actual quantities used and the total cost of the project. It shall also indicate the distribution of costs to the approved funding sources for the project.

12. Based on the Municipal Services Representative's review that the project was completed in accordance with the scope of work described on the MS-329, the MS-999 will be signed and a copy returned to the county for future audit purposes.

4.8 REQUIRED REPORTS

Each county must submit a set of annual reports showing the receipts and expenditures of all Act 44 funds received from the Commonwealth on forms supplied by the Center for Program Development and Management. These forms and other related forms are listed in Figure 4.b below. Please visit <http://www.penndot.gov> under "Forms and Publications" for all applicable forms in both .pdf and spreadsheet format.

REQUIRED REPORT FORMS			
FORM	TITLE OF FORM	DUE	SUBMIT TO
MS-991	Report of County Act 44 Funds	January 31st	PennDOT Center for Program Development and Management ATTN: Financial and Contract Services Division PO Box 8211 Harrisburg, PA 17105-5211 Email: pdcpdmfinconsult@pa.gov dotGrants: https://www.dot34.state.pa.us/
MS-329	Project Approval Form	Must be approved by a Municipal Services Representative prior to the project	District Municipal Services Office (See Appendix G)
MS-999	Project Completion Form	At project completion	

Figure 4.b Required Report Forms

4.8.1 Preparation of Forms

All of the forms listed in Figure 4.b are available through PennDOT's Services to Local Government web page at <http://www.penndot.gov/Doing-Business/LocalGovernment>. Since these forms change from time to time, they are not included in this publication. Only their general purpose and uses are described below. Detailed instructions for their completion can be obtained from your Municipal Services Representative (see Appendix G).

The MS-991 form is prepared throughout the year and is due before January 31st for the preceding calendar year.

4.8.1.1 MS-991 Report of County Act 44 Funds

This form requests such information as:

- Balance in the County Act 44 Fund at the beginning of the report calendar year.
- Receipts which must be itemized and include interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.
- Accounts receivable (to be realized within 60 days of the year end).
- Total Act 44 funds available for expenditure and encumbrances.
- Expenditures for county-owned bridges. Expenditures are listed individually, in order by date and voucher number. Required data also include the recipient, purpose, type of expenditure (e.g., maintenance, repair, construction), loans repaid, and grants. PennDOT, PUC, and/or other agreement numbers should be included when applicable. Note: project numbers are assigned by the District Municipal Services Office and are included on the MS-329, Project Approval form.
- Accounts payable (to be paid within 60 days of the year end).
- Balance in the fund at the close of the report calendar year.
- Ending bank balance on hand at the close of the report calendar year.

4.8.1.2 MS-329 Project Approval Form

This form is completed by a Municipal Services Representative when investigating a project. It records the approval of the scope of work and authorizes expenditures for the project from the County Act 44 Fund. The form contains a project number. One copy is given to the county and one copy is retained by the District Municipal Services Office.

4.8.1.3 MS-999 Completion Report

When construction or maintenance project work is completed, the county completes section one and forwards the form to the District Municipal Services Office. All costs associated with the project are included. District Municipal Services Representatives complete section two of the form, approving the expenditure of County Act 44 funds.

4.9 EXTENDING A COUNTY'S FUND TO TWO YEARS

A county's handling of its County Act 44 Fund is normally on a year-to-year basis. However, in an emergency and with the prior approval of the District Municipal Services Representative, a county may obligate itself for the expenditure of its estimated receipts from the Act 44 Fund for a period of two years. The county will then receive a credit for such expenditures against such subsequent receipts. Except for this, no county may carryover a credit balance against future receipts from the state from one year to the next.

4.10 AUDIT REQUIREMENT

All County Act 44 funds are audited by the Pennsylvania Department of the Auditor General in accordance with the requirements of Section 403 of the Fiscal Code, 72 P.S. § 403.

CHAPTER FIVE

COUNTY FEE FOR LOCAL USE FUND

5.1 BACKGROUND

On November 25, 2013, Act 89 of 2013 was approved and passed into law. As a result of changes it made regarding transportation-related funding for local governments, several chapters of Publication 9 needed to be updated. One of the changes allows counties to impose a \$5 fee for local use on nonexempt vehicles registered to an address located in the county. This new section establishes guidelines governing the collection, use and oversight for those funds.

Act 89 of 2013 amended the Vehicle Code, Title 75 of the Pennsylvania Consolidated Statutes, by adding Section 1935, which reads as follows:

§ 1935. Fee for local use.

- (a) Establishment of fund.--A special fund is established within the State Treasury to be known as the Fee for Local Use Fund. Money in the fund is appropriated to the department for the purposes set forth in this section.
- (b) Levy.--Beginning after December 31, 2014, a county may, in its discretion by ordinance, impose a fee of \$5 for each nonexempt vehicle registered to an address located in the county. A county shall notify the department of the passage of the ordinance 90 days prior to the effective date of the ordinance.
- (c) Collection.--The department shall collect fees imposed under subsection (a) at the time a vehicle is registered and shall deposit the money in the Fee for Local Use Fund.
- (d) Distribution.--Money paid into the Fee for Local Use Fund shall be distributed by the department to each participating county in accordance with the amounts collected from the county. Funds payable to a county under this section shall be added to funds payable to the county under section 9010(b) (relating to disposition and use of tax) and shall be used by the county for transportation purposes or be allocated by the county in accordance with section 9010(c).

In addition to supplying an ordinance to PennDOT, the county must also establish a separate bank account in which to receive electronic distribution of monies from the Fee for Local Use Fund. These funds are not to be comingled with County Liquid Fuels Tax funds.

The Center for Program Development and Management will distribute the funds into the established separate account in June and December annually. In 2015, the first payment is not anticipated to occur until December.

Use of the funds is constitutionally limited to highway and bridge purposes, i.e. the construction, reconstruction, maintenance and repair of and safety on public highways and bridges and costs and expenses incident thereto. Recordkeeping and auditing of these funds will be subjected to the same requirements as established for the County Liquid Fuels Tax funds.

Details for each of these points are included in this chapter as guidance for counties which establish a Fee for Local Use ordinance and account.

5.2 WHERE TO DIRECT QUESTIONS

Counties with questions concerning payments should contact the Center for Program Development and Management at 717.214.6161. Counties with questions concerning the use of these funds should contact the Bureau of Planning and Research at 717.772.0827. If necessary, the Bureaus will interact with Driver and Vehicle Services or the Office of Chief Counsel.

Individual vehicle owners should contact PennDOT's Driver and Vehicle Services Customer Care Center in state at 1.800.932.4600 or out of state at 1.717.412.5300.

5.3 VEHICLES SUBJECT TO THE FEE FOR LOCAL USE

All nonexempt vehicles registered to an address located in the county are subject to the fee for local use. Nonexempt vehicles are those vehicles which are not exempt from registration fees under the Vehicle Code, i.e., those for which a registration fee is due.

Vehicles exempt from registration under the Vehicle Code are addressed in Sections 1901 ("Exemptions of persons, entities and vehicles from fee"), 1302 ("Vehicles exempt from registration"), 1303 ("Vehicles of nonresidents exempt from registration"), 1335 ("Registration plates for manufacturers and dealers"), and 1337.1 ("Fleet owner transporter registration plate"). A county may not exempt vehicles other than those exempt under the Vehicle Code.

Trailers are vehicles under the Vehicle Code subject to the fee. Recreational vehicles (RVs) are motor homes or camping trailers, both of which are vehicles under the Vehicle Code subject to the fee.

Boats are not subject to the fee because they are registered by the Fish and Boat Commission, not PennDOT. Likewise, all-terrain vehicles are not subject to the fee because they are registered by the Department of Conservation and Natural Resources, not the Department.

PennDOT has a list of the approximate number of nonexempt vehicles in each county. It is available upon request.

5.4 CREATING AN ORDINANCE

County ordinances to assess the \$5 fee for local use may be passed by counties on or after January 1, 2015, and notice provided to the Department. The effective date of imposition of the fee cannot be less than 90 days from when the county notifies PennDOT of passage of an ordinance. This timeframe will allow PennDOT to modify the vehicle renewal notices for each county that enacts an ordinance so vehicle renewals will begin with the effective date in the ordinance.

The County Commissioners Association of Pennsylvania (CCAP) has developed a model ordinance that can be used as determined appropriate by the county solicitor. This model ordinance can be found on CCAP's website at www.pacounties.org, under Legislative Quick Links, Transportation Funding/Act 89 Resources. The basic information must contain the effective date of the ordinance, and if desired, any time limits or duration of effectiveness established by the ordinance. The document must show authorized signatures and the county clerk's seal.

A county may not impose a fee of less than \$5 because Section 1935 only provides for a fee of \$5 for each nonexempt vehicle registered to an address located in the county. The \$5 fee will not be subject to automatic adjustment of fees under Section 1904(c) of the Vehicle Code because the fee is not being charged by PennDOT under the Vehicle Code, but is rather imposed at the discretion of counties by local ordinance.

A county may limit the time during which the fee will be assessed because the time-frame for imposition of the fee is not restricted in Section 1935. Any such time restriction should, however, be addressed in the ordinance if known at the time of the ordinance.

PennDOT requires at least 90 days' notice before an assessment is to expire to insure proper billing for registrations in the county.

Signed and attested ordinances must be submitted to PennDOT by U.S. Mail or electronic copy as follows:

U.S. Mail Service:

Commonwealth of Pennsylvania, Department of Transportation
Deputy Secretary for Planning
400 North Street
Keystone Building, 8th Floor
Harrisburg, PA 17120-0041

Electronic Submission:

lashifflet@pa.gov

5.5 ESTABLISHING A SEPARATE ACCOUNT FOR RECEIPT OF THE FEE FOR LOCAL USE

In addition to submitting the ordinance, the county must establish a separate fund for the receipt of the \$5 fee for local use funds. The Commonwealth's Central Vendor Management Unit is the unit that establishes the separate account. The website for this is www.vendorregistration.state.pa.us or e-mail to: RA-PSC_Supplier_Requests@pa.gov or telephone 877.435.7363 (toll free).

Once the county registers the separate fund with the Central Vendor Management Unit, should the county elect to receive monies from the Fee for Local Use Fund electronically, the county must follow the instructions for Electronic Funds Transfer (EFT) payments and complete the documentation as found on the Office of Comptroller Operations, Bureau of Payable Services website at:

[https://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.- pdf](https://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.-pdf)

Completion of these forms will allow the Department of the Treasury to deposit the funds into the county's designated bank account. Completed and signed forms should be faxed to the Central Vendor Management Unit at 717.214.0140.

5.6 COLLECTION OF THE FEE FOR LOCAL USE

PennDOT's Driver and Vehicle Services (DVS) will collect the fee. DVS will deposit the fees with the Department of Treasury, which will establish the Fee for Local Use Fund.

DVS will collect the fee at the time of registration or renewal of nonexempt vehicles. Therefore, for owners of trailers exercising the optional five-year registration under Section 1920(b) of the Vehicle Code, the fee collected at the time the vehicle is registered is \$5. For vehicle owners who opt for biennial registration of nonexempt vehicles under Section 1307(g) of the Vehicle Code when it becomes effective in 2016, the fee is \$5 at the time of registration or renewal. Section 1935 does not provide that the fee is annual, but rather that it is collected at the time of registration.

5.7 DISTRIBUTION OF FUNDS TO THE COUNTIES

PennDOT's Center for Program Development and Management will distribute the funds to the counties on June 1 and December 1 of each year similar to the distribution of county liquid fuel funds. However, liquid fuel funds may not be comingled with other funds. Consequently, fee for local use funds will be distributed in addition to and separately from County Liquid Fuel funds, not in the same transaction. In 2015, the first payment is not anticipated to occur until December.

5.7.1 Investment of Funds

Fee for Local Use Funds should be invested to earn interest until expended and may be combined with other county funds for investment purposes. However, the principal and its proportionate share of interest must be returned to the Fee for Local Use account and expended in accordance with the Act. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral.

5.8 ALLOWABLE USES OF FEE FOR LOCAL USE FUNDS

Counties can use the funds for transportation purposes or allocate them to political subdivisions within the county in accordance with Section 9010(c) of the Vehicle Code, subject to constitutional limitations.

Section 9010(c) allows funds to be apportioned to political subdivisions within the county through a formula based on road mileage and population. A county is not, however, restricted to use the formula for distribution. A county may distribute fee for local use funds to municipalities and other governmental entities through an application process similar to that used for County Liquid Fuel funds, as long as the municipality or other governmental entity uses the funds for permitted transportation purposes. A county may also distribute fee for local use funds to non-profit corporations through an application process, again as long as the non-profit corporation uses the funds for permitted transportation purposes, e.g. the creation of highway and bridge planning studies.

Article 8, Section 11 of the Pennsylvania Constitution, which restricts the diversion of proceeds from vehicle registration fees, applies to the use of fee for local use funds. Vehicle registration fees may only be used under the Pennsylvania Constitution for construction, reconstruction, maintenance and repair of and safety on public highways and bridges and costs and expenses incident thereto. Consequently, fee for local use funds can only be used by counties or others if distributed by a county under Section 9010(c) or by application, for construction, reconstruction, maintenance and repair of and safety on public highways and bridges and costs and expenses incident thereto.

Fee for local use funds cannot be used for transit purposes. Transit is not a highway or bridge purpose within the confines of Article 8, Section 11.

Fee for local use funds are not limited to those uses set forth in Section 9010(b) of the Vehicle Code addressing allowable uses for county liquid fuel funds because the phrase transportation purposes in Section 1935 is broader. However, those uses listed in Section 9010(b) are constitutional uses and thus allowable uses for fee for local use funds.

5.8.1 Examples of Acceptable Expenditures include:

1. Construction, reconstruction, maintenance, and repair of public roads/streets or bridges for which the county or municipality is legally responsible including a roadway open to the use of the public for vehicular travel on grounds of a college or university or public or private school or public or historical park.
2. Costs of property damages resulting from road and/or bridge construction, reconstruction, or maintenance.
3. Purchase of right-of-way for road and/or bridge construction, reconstruction, or maintenance.
4. Compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges.
5. Interest and principal payments on road or bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.
6. Any road or bridge work by order of the Public Utility Commission (PUC).

7. Culverts and drainage structures.
8. Acquisition, maintenance, repair, electrification, and operation of traffic signs and traffic signal control systems at intersections and/or railroad crossings.
9. Maintenance on alleys, ways, and courts in counties, townships, boroughs, and cities provided the municipality can demonstrate it has a legal responsibility for the alley, way, or court.
10. Street lighting in excess of taxes and bridge and interchange lighting.
11. Minor equipment, equipment rentals, or repair parts for road maintenance vehicles.
12. Road drags and snow fence.
13. Purchase of PennDOT-approved materials.
14. Major road and bridge equipment (equipment costs in excess of \$4,000).
15. County Engineer's salary and benefit costs for road or bridge work.
16. Debris removal from the roadway and its gutters and shoulders.
17. Erection of street name signs, traffic directing signs, and traffic signal control-systems.
18. Brush removal to improve sight distance.
19. Lane and crosswalk painting and marking.
20. Cleaning of inlets and culverts.
21. Certain structures such as salt storage sheds or buildings built to house county or municipal owned road equipment.
22. Engineering fees (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
23. Curb ramps to provide access by individuals with disabilities in accordance with the current Americans with Disabilities Act (ADA) and PennDOT standards.
24. Driveway grade adjustments due to construction or reconstruction.
25. Liability insurance for road and bridge equipment and vehicles when the named beneficiary is the entity's Liquid Fuels Tax Fund.
26. Administrative costs to a maximum of 10% of that year's total allocation, including benefits, overhead, and other administrative charges for county employees directly involved in permitted activities.

Note: expenditures must be documented and may be paid directly or charged as a mark-up on direct costs as part of an approved indirect cost allocation plan when the basis of the charge is consistent with charges to other county departments and the level of activity of the fund.

27. Indirect engineering and transportation planning costs.

Note: the total indirect cost that may be expended in any year is limited to the 10% administrative allowance (see number 26 above). Direct engineering costs either contracted or in house are not included as either indirect or administrative costs. The reimbursement of prior year indirect costs is not permitted nor is any carryforward of eligibility authorized.

28. Ferry boat operations, where applicable.
29. Appraisal fees for infrastructure assets (as required by GASB 34).
30. Curbs that are part of the drainage system.
31. Inspection costs associated with roadway and bridge structures such as signs, signals, culverts, drainage structures and bridges.
32. Transportation related safety studies or safety projects on public highways.
33. Meeting the match requirement for Department highway and bridge projects and highway and bridge projects funded under the Multimodal Fund.
34. The construction of sound walls if included in a highway project as a mitigation measure for environmental purposes and all warrants are met.
35. The portion of pedestrian trails that is located within highway right-of-way.
36. Repayment of or as security for Pennsylvania Infrastructure Bank loans with previous approval of the District Municipal Services Representative.
37. Other expenditures determined, on a case-by-case basis, to be consistent with the requirements and restrictions of Article 8, Section 11 of the Pennsylvania Constitution.

5.8.2 Examples of Unacceptable Expenditures include:

1. Parks, municipal buildings, or playgrounds.
2. Police departments, fire departments, or historic, charitable, or civic projects.
3. Private property drives.
4. Sidewalks not involved with road or bridge realignment projects.
5. Sanitary sewers, water lines, or utility costs.
6. Garbage or recycling pick-up.
7. Construction projects without prior Department approval.
8. Undocumented payroll expenditures.
9. Gasoline purchases for private vehicles.
10. Retroactive expenditures.
11. Transit-related expenditures.
12. The construction of sound walls if not included in a highway project as a mitigation measure for environmental purposes and/or does not meet all warrants.
13. The portion of pedestrian trails that is not located within highway right-of-way.
14. Other expenditures that do not comply with Section 1935 or the County Code.
15. Lump sum bidding unless specified under measurement and payment in PUB 408 and/or PUB 447.

5.9 PROCEDURE TO ESTABLISH A CONSTRUCTION/ RECONSTRUCTION AND/OR RESURFACING PROJECT

The following criteria is used to determine when Project Approval is required for work on local roads utilizing fee for local use funds, when construction, reconstruction, and/or resurfacing work exceeds one inch or more in depth, as well as other activities.

Criteria To Determine When Project Approval Is Required	
Bituminous surface	A depth of 1" or greater
Concrete surface	50 square yards or more
Widening	A new lane and/or more than two feet on either or both sides of existing roadway
Relocation	All
Bridges	For bridge maintenance/preservation activities, confer with Municipal Services Representative to determine if a project approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas require
Other	Reconstruction, such as removal and replacement of one inch or more of existing road material, including base and surface. This includes cold-mill recycling and reclamation work.
Traffic signals and lighting	New installations
Guiderail	New installation location or replacement with upgrade or better technology.
Pipe	New installation location or replacement with a larger size.

Figure 5.a Criteria to Determine When Project Approval Is Required

1. The county officials shall notify the Municipal Services Representative that work has been proposed utilizing fee for local use funds.
2. The county official or engineer shall make an appointment with the Municipal Services Representative to review the proposed work to determine if it fits the above criteria of a "project" requiring a MS-329, Project Approval Form. It is imperative that this be done prior to the project being started to ensure compliance with all requirements.
3. During the review of the work, the Municipal Services Representative may instruct the local officials or engineer on the preparation of the advertisement and proposal/contract.
4. The Municipal Services Representative and/or the county officials or engineer will estimate the cost of the work to be done. For contracts entered on or after January 1, 2014, Section 9023 of the Vehicle Code, 75 Pa. C.S. § 9023 is changed as follows:
§ 9023. APPLICATION OF PREVAILING WAGE ACT TO LOCALLY FUNDED HIGHWAY AND BRIDGE PROJECTS.

- (a) Public work for locally funded highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of \$100,000. The term shall not include work performed under a rehabilitation or manpower training program.
 - (b) Applicability.--This section shall apply to a contract entered on or after the effective date of this section.
 - (c) Definition.--As used in this section, the term "locally funded" means a highway or bridge project that is funded entirely by funds:
 - (1) paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(ii), whether expended by the county or allocated or apportioned to political subdivisions;
 - (2) allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law;
 - (3) made available to municipalities from the highway bridge improvement restricted account within the motor license fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L. 848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;
 - (4) awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);
 - (5) allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or
 - (6) allocated to municipalities under 58 Pa. C.S. (relating to oil and gas). If the estimated cost exceeds \$100,000, the county officials shall request from the Pennsylvania Department of Labor and Industry guidance as to whether the work is subject to the Pennsylvania Prevailing Wage Act and, if it is, determination of the applicable Pennsylvania prevailing wages. When prevailing wage rates apply, the county shall inform bidders of those rates through the advertisement and the proposal. If the Department of Labor and Industry determines that Prevailing Wage Rates apply to this project, then the actual rates must be advertised as part of the proposal.
5. Projects funded with Dirt, Gravel, and Low Volume Road funds that are bid out to contractors in which the estimated cost of the total project (materials, equipment and labor), exceeds prevailing wage limits (currently \$25,000) are subject to provisions of Pennsylvania's Prevailing Wage Act (1961, August 15, P. L. 987, No. 442), 43 P. S. Section 165-1 et seq.

6. If the project cost exceeds \$2,000 and is financed partly with federal funds, the Davis-Bacon Act, a federal statute (40 U.S.C. §§ 3141-3145), may apply. The Davis-Bacon Act applies without regard to the nature of the roadwork being performed. A county has the responsibility of obtaining the Davis-Bacon wage rates, if applicable, and including these rates in the proposal and advertisement for bids. To obtain Davis-Bacon wage rates, the county needs to contact the United States Department of Labor, Wage and Hour Division, which has district offices in Philadelphia, Pittsburgh, and Wilkes-Barre. The Pennsylvania Prevailing Wage Act does not apply to the project if the construction is covered under the Davis-Bacon Act. If the Davis-Bacon Act is applicable, it preempts the Pennsylvania Prevailing Wage Act. Furthermore, the Davis-Bacon Act, if applicable, applies to the entire project, not just the federally-funded component.
7. The county officials will prepare the advertisement and proposal/contract showing reasonable quantities and type of material or type of work. These items should be the same in the advertisement and proposal. The bids shall be opened at the same time and place indicated in the advertisement.
8. The county shall prepare a tabulation of bids and notify the Municipal Services Representative that the bids have been received and a contract awarded. The advertisement and proposal/contract documents will be reviewed by the Municipal Services Representative. Any discrepancies must be resolved and reflected on a revised MS-329, Project Approval form, authorizing the work to begin.
9. A completed and signed MS-329 will be forwarded to the municipality for future audit purposes. All revisions to the project must be reported to the Municipal Services Representative. A revised MS-329 may be issued based on changes to the scope of work.
10. During the construction, the Municipal Services Representative shall make an effort to visit the project to review the work and the progress of the job.
11. Upon completion of the project, the county officials shall complete Form MS-999, Project Completion Report, and submit this form to the Municipal Services Representative. A final field inspection will be conducted by the Municipal Services Representative. The county may be asked to provide all documentation required by PennDOT Publication 408, Highway Construction Specifications, (e.g., delivery tickets, certifications, bituminous mix designs, calculations for bituminous price adjustments). The MS-999 must reflect the actual quantities used and the total cost of the project. It shall also indicate the distribution of costs to the approved funding sources for the project.
12. Based on the Municipal Services Representative's review that the project was completed in accordance with the scope of work described on the MS-329, the MS-999 will be signed and a copy returned to the municipality for future audit purposes.

5.10 REPORTING AND AUDITING OF FEE FOR LOCAL USE FUNDS

Each county that has adopted a fee for local use ordinance must submit a set of annual reports showing the receipts and expenditures of all fee for local use funds received from the Commonwealth on forms supplied by the Center for Program Development and Management. These forms and other related forms are listed below. Please visit <http://www.penndot.gov/Doing-Business/LocalGovernment> under “Forms and Publications” for all applicable forms in both .pdf and spreadsheet format.

5.10.1 Preparation of Forms

All of the forms listed are available through PennDOT’s Services to Local Governments web page at <http://www.penndot.gov/Doing-Business/LocalGovernment>. Since these forms change from time to time, they are not included in this publication. Only their general purpose and uses are described below. Detailed instructions for their completion can be obtained from your Municipal Services Representative. The MS-991 and MS-992 forms are prepared throughout the year and are due before January 31st for the preceding calendar year.

5.10.2 Report of Fees for Local Use Funds

This form requests such information as:

- Balance in the Fee for Local Use Fund at the beginning of the report calendar year.
- Receipts which must be itemized and include interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.
- Accounts receivable (to be realized within 60 days of the year end).
- Total Fee for Local Use funds available for expenditure.
- Expenditures for county-owned bridges.
- Accounts payable (to be paid within 60 days of the year end).
- Balance in the fund at the close of the report calendar year.
- Ending balance on hand at the close of the report calendar year.

5.10.3 Fee for Local Use Fund-Account Expenditures

Expenditures are listed individually, in order by date and voucher number. Required data also include the recipient, purpose, type of expenditure (e.g., maintenance, repair, and construction), loans repaid, and grants. PennDOT, PUC, and/or other agreement numbers should be included when applicable. Note: project numbers are assigned by

the District Municipal Services Office and are included on the MS-329, Project Approval form.

5.10.4 MS-339 Application for County Aid (from Political Subdivisions)

Section one of this form is prepared by a municipality requesting county aid on a construction or maintenance project. This is the county's record of the request for funds and certifies that a proper resolution was passed by the municipality requesting aid.

The county shall ensure that municipalities have signed and sealed the document.

Section two of the form is completed by the county, which certifies that a proper resolution was passed by the county granting the requested aid and is also a commitment by the county that the municipality will be reimbursed upon satisfactory completion of the MS-999, Project Completion Report.

Section three is the PennDOT approval section and will be completed by the Municipal Services Representative.

5.10.5 MS-339 MS-329 Project Approval Form

This form is completed by a Municipal Services Representative when investigating a project. It records the approval of the scope of work and authorizes expenditures for the project from the Fee for Local Use Fund. The form contains a project number. One copy is given to the county and one copy is retained by the District Municipal Services Office.

5.10.6 MS-999 Completion Report

When construction or maintenance project work is completed, the county completes section one and forwards the form to the District Municipal Services Office. All costs associated with the project are included. The Municipal Services Representative completes section two of the form, approving the expenditure of Fee for Local Use funds.

5.10.7 Audit Requirement

All Fee for Local Use Funds are subject to audit annually by the Pennsylvania Department of the Auditor General in accordance with the requirements of Section 403 of the Fiscal Code, 72 P.S. § 403.

CHAPTER SIX

6. ACT 89 FOR COUNTY MAINTENANCE, CONSTRUCTION AND REPAIR OF COUNTY-OWNED BRIDGES

6.1 GENERAL

This chapter provides county officials with information pertaining to the administration and a basic understanding of the policies, procedures, and requirements for the use of funds allocated under Act 26 by counties as amended by Act 89 of 2013. (Act 89).

The Pennsylvania Department of Transportation (PennDOT) has regulatory authority for the administration of these funds.

In the event of any discrepancies between this document and the enabling legislation, as amended, the legislation shall govern.

6.2 PURPOSE OF THE ACT

Act 89 provides for semiannual allocations to all counties that own public bridges. These allocations are made on the first business day in June and December of each year.

The allocations must be deposited into a separate fund (not the County Liquid Fuels Fund), from which payments may be made for the maintenance and construction of county-owned bridges.

6.3 ALLOCATION OF FUNDS

As provided in 75 Pa. C.S. § 9502(a)(2)(iv), the Commonwealth allocates the funds available through Act 89 to counties based on the ratio of the square footage of deck area of a county's county-owned bridges to the total square footage of deck area of county-owned bridges throughout this Commonwealth. The amount of square footage used shall be that reported as part of the National Bridge Inspection Standards Program.

The amount a county receives is based on its percentage of the total available for allocation using the ratio described above.

The allocation is calculated once annually and is distributed by PennDOT's Center for Program Development and Management to the counties in June and December.

6.4 ELIGIBILITY TO RECEIVE FUNDS

In order to receive Act 89 funds as scheduled, each county must submit an annual report showing the receipts and expenditures for the preceding 12 months. (See Section 6.8, Required Reports.) The use of the funds must be in compliance with the Act. (See Section 6.6, Appropriate Use of Funds.) Failure to do so may result in the county's not receiving allocations until such deficiencies are resolved.

6.5 DEPOSIT OF FUNDS

Each county must deposit the Act 89 funds it receives into a special fund called the County Act 89 Fund, which may be used only for those purposes permitted by the Act. The only exception to this is explained in Section 6.6.2, Transfer of Monies into the County Act 89 Fund. (NOTE: Act 89 and Act 44 funds may be deposited in a single account. However, the county must account for these funds independently for auditing.)

6.6 APPROPRIATE USE OF FUNDS

It is extremely important that the monies in the County Act 89 Fund be handled properly, as they are subject to audit by the Pennsylvania Department of the Auditor General. This section describes the proper use of these funds.

6.6.1 Investment of Funds

Monies in the County Act 89 Fund should be invested to earn interest until expended and may be combined with other county funds for investment purposes. However, the principal and its proportionate share of interest must be returned to the County Act 89 Fund and expended in accordance with the Act. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral.

6.6.2 Transfer of Monies into the County Act 89 Fund

When a county lacks enough money in its County Act 89 Fund to meet expenses for its current annual budget for the various bridge purposes, the county may borrow monies (not to exceed the total allocation it will receive from the Act 89 Fund in that current calendar year) and deposit such monies in its County Act 89 Fund. All such loans must be repaid out of the monies in this fund before the end of that current calendar year, with the exception of those counties that have implemented Government Accounting Standards Board Proclamation 34 (GASB 34).

6.6.3 Loans

Proceeds from any loan made to supplement the County Act 89 Fund must be used exclusively for those purposes permitted by the Act. Such loans may not be made for both Act 89 Fund purposes and an unrelated purpose. All loans must comply with the Local Government Debt Act with the exception of the County of Philadelphia. For more information, contact the Pennsylvania Department of Community and Economic Development (DCED) at www.newpa.com or by telephone at 888-223-6837.

6.6.4 Bond Issues

All proceeds from county bond issues made for use by the County Act 89 Fund must be used exclusively for the purposes permitted by the Act and may not be used for an unrelated purpose.

6.6.5 Receipts to the County Act 89 Fund

The Act specifies that the Commonwealth shall distribute the Act 89 funds to the counties semiannually. These distributions occur in June and December.

Receipts include:

- County Act 89 funds received from the Commonwealth.
- Interest earned on deposited funds.
- Borrowed monies deposited in the fund (to be repaid by the end of calendar year).
- Settlement as a result of damage claims to county bridges constructed or repaired with County Act 89 funds.
- Sale of salvageable material and equipment purchased with County Act 89 funds.
- Other receipt sources relating to County Act 89 Fund expenditures, such as reimbursement agreements with PennDOT, another governmental agency, or private entity.
- Receivables for year-end funds due to the county for state reimbursable agreements (should be received within 90 days of year-end).

6.6.6 Expenditure of Funds

There are certain legal and regulatory restrictions on County Act 89 Fund expenditures, which are discussed in this section.

6.6.6.1 Prior Approval Required

County Act 89 Fund monies may not be allocated or expended for construction or reconstruction projects by the county without the prior approval of the application, contract, or plans for the proposed expenditure by PennDOT (Figure 6.a). In addition, any equipment whose value would require price quotes according to County Code must be preapproved by PennDOT prior to purchase.

6.6.6.2 Completed Work Approval Required

Completed work by a county must be approved by the Engineering District Municipal Services Representative before payments can be made.

6.6.6.3 Acceptable and Unacceptable Expenditures

Examples of acceptable and unacceptable expenditures of County Act 89 funds are shown below. These lists are not exhaustive; and, in the case of questionable expenditures, contact your local Municipal Services Representative.

Acceptable Expenditures:

1. Construction, reconstruction, maintenance, and repair of public bridges for which the county is legally responsible.
2. Interest and principal payments on bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.
3. Any work on county owned bridges by order of the Public Utility Commission (PUC).
4. Minor equipment, equipment rentals, or repair parts for equipment used in bridge maintenance and construction (that portion of the total calculated to be relevant to bridge work only. Documentation must be available for audit.) Value must be under that which requires price quotes per the County Code.
5. Purchase of PennDOT-approved materials needed for bridge work.
6. Major bridge equipment, which is equipment costs in excess of the amount which requires price quotes per the County Code. (That portion of the total calculated to be relevant to bridge work only. Documentation must be available for audit.) Requires prior District Municipal Services Office approval and must be documented on an MS-329.
7. County Engineer's salary and benefit costs for bridge work (that portion of the total calculated to be relevant to bridge work only. Documentation must be available for audit).
8. Engineering fees related to bridge work (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
9. Liability insurance for bridge equipment and vehicles when the named beneficiary is the entity's Act 89 Fund.
10. Payables for year-end county bridge expenses (should be satisfied within 60 days of year-end).
11. Inspection costs associated with bridges.
12. Purchase of right-of-way for bridge construction, reconstruction, or maintenance.

Unacceptable Expenditures:

1. County- or municipal-owned roadways.
2. Non-county-owned bridges.
3. Parks, municipal buildings, or playgrounds.
4. Police departments, fire departments, or historic, charitable, or civic projects.
5. Private property drives.
6. Sidewalks not involved with bridge realignment projects.
7. Sanitary sewers, water lines, or utility costs.
8. Garbage or recycling pickup.
9. Construction projects without prior PennDOT approval.
10. Undocumented payroll expenditures.
11. Gasoline purchases for private vehicles.
12. Retroactive expenditures
13. Expenditures that do not comply with Act 44 or the County Code.
14. Lump sum bidding unless specified under measurement and payment in PUB 408 and/or PUB 447.

6.7 PROCEDURE TO ESTABLISH A PROJECT

The criteria appearing in Figure 6.a below are used to determine when Project Approval is required for work on County owned bridges utilizing Act 89 funds.

Criteria To Determine When Project Approval Is Required	
Bridges	For bridge maintenance/preservation activities, confer with a Municipal Services Representative to determine if a project approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas require project approval.

Figure 6.a Criteria To Determine When Project Approval Is Required

Process for Obtaining Project Approval

1. The county officials shall notify the Municipal Services Representative that work has been proposed utilizing Act 89 funds.
2. The county officials or engineer shall make an appointment with the Municipal Services Representative to review the proposed work to determine if it fits the above criteria of a “project” requiring a MS-329, Project Approval Form. It is imperative that this be done prior to the project’s being started to ensure compliance with all requirements.
3. During the review of the work, the Municipal Services Representative may instruct the local officials or engineer on the preparation of the advertisement and proposal/contract.

4. The Municipal Services Representative and/or the county officials or engineer will estimate the cost of the work to be done. For contracts entered on or after January 1, 2014, Section 9023 of the Vehicle Code, 75 Pa. C.S. § 9023 is changed as follows:

§ 9023. APPLICATION OF PREVAILING WAGE ACT TO LOCALLY FUNDED HIGHWAY AND BRIDGE PROJECTS.

- (a) Public work.--For locally funded highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of \$100,000. The term shall not include work performed under a rehabilitation or manpower training program.
- (b) Applicability.--This section shall apply to a contract entered on or after the effective date of this section.
- (c) Definition.--As used in this section, the term "locally funded" means a highway or bridge project that is funded entirely by funds:
 - (1) paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(ii), whether expended by the county or allocated or apportioned to political subdivisions;
 - (2) allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law;
 - (3) made available to municipalities from the highway bridge improvement restricted account within the motor license fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L. 848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;
 - (4) awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);
 - (5) allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or
 - (6) allocated to municipalities under 58 Pa. C.S. (relating to oil and gas).

If the estimated cost exceeds \$100,000, the county officials shall request from the Pennsylvania Department of Labor and Industry guidance as to whether the work is subject to the Pennsylvania Prevailing Wage Act and, if it is, determination of the applicable Pennsylvania prevailing wages. When prevailing wage rates apply, the county shall inform bidders of those rates through the advertisement and the proposal. If the Department of Labor and

Industry determines that Prevailing Wage Rates apply to this project, then the actual rates must be advertised as part of the proposal.

5. Projects funded with Dirt, Gravel, and Low Volume Road funds that are bid out to contractors in which the estimated cost of the total project (materials, equipment and labor), exceeds prevailing wage limits (currently \$25,000) are subject to provisions of Pennsylvania's Prevailing Wage Act (1961, August 15, P. L. 987, No. 442), 43 P. S. Section 165-1 et seq.
6. If the project cost exceeds \$2,000 and is financed partly with federal funds, the Davis-Bacon Act, a federal statute (40 U.S.C. §§ 3141-3145), may apply. The Davis-Bacon Act applies without regard to the nature of the work being performed. A county has the responsibility of obtaining the Davis-Bacon wage rates, if applicable, and including these rates in the proposal and advertisement for bids. To obtain Davis-Bacon wage rates, the county needs to contact the United States Department of Labor, Wage and Hour Division, which has district offices in Philadelphia, Pittsburgh, and Wilkes-Barre. The Pennsylvania Prevailing Wage Act does not apply to the project if the construction is covered under the Davis-Bacon Act. If the Davis-Bacon Act is applicable, it preempts the Pennsylvania Prevailing Wage Act. Furthermore, the Davis-Bacon Act, if applicable, applies to the entire project, not just the federally-funded component.
7. The county officials will prepare the advertisement and proposal/contract showing reasonable quantities and type of material or type of work. These items should be the same in the advertisement and proposal. The bids shall be opened at the same time and place indicated in the advertisement.
8. The county shall prepare a tabulation of bids and notify the Municipal Services Representative that the bids have been received and a contract awarded. The advertisement and proposal/contract documents will be reviewed by the Municipal Services Representative. Any discrepancies must be resolved and reflected on a revised MS-329, Project Approval Form, authorizing the work to begin.
9. A completed and signed MS-329 will be forwarded to the county for future audit purposes. All revisions to the project must be reported to the Municipal Services Representative. A revised MS-329 may be issued based on changes to the scope of work.
10. During the construction, the Municipal Services Representative shall make an effort to visit the project to review the work and the progress of the job.
11. Upon completion of the project, the county officials shall complete Form MS-999, Project Completion Report, and submit this form to the Municipal Services Representative. A final field inspection will be conducted by the Municipal Services Representative. The county may be asked to provide all documentation required by PennDOT Publication 408, Highway Construction Specifications, (e.g., delivery tickets, certifications, bituminous mix designs, calculations for bituminous price adjustments). The MS-999 must reflect the actual quantities used and the total cost of the project. It shall also indicate the distribution of costs to the approved funding sources for the project.

12. Based on the Municipal Services Representative's review that the project was completed in accordance with the scope of work described on the MS-329, the MS-999 will be signed and a copy returned to the county for future audit purposes.

6.8 REQUIRED REPORTS

Each county must submit a set of annual reports showing the receipts and expenditures of all Act 89 funds received from the Commonwealth on forms supplied by the Center for Program Development and Management. These forms and other related forms are listed in Figure 6.b below. Please visit [http://www.penndot.gov/Doing-Business/Local Government](http://www.penndot.gov/Doing-Business/LocalGovernment) under "Forms and Publications" for all applicable forms in both .pdf and spreadsheet format.

REQUIRED REPORT FORMS			
FORM	TITLE OF FORM	DUE	SUBMIT TO
MS-991	Report of County Act 89 Funds	January 31st	PennDOT Center for Program Development and Management ATTN: Financial and Contract Services Division PO Box 8211 Harrisburg, PA 17105-5211 Email: pdcpdmfinconsult@pa.gov dotGrants: https://www.dot34.state.pa.us/
MS-329	Project Approval Form	Must be approved by a Municipal Services Representative prior to the project	District Municipal Services Office (See Appendix G)
MS-999	Project Completion Form	At project completion	

Figure 6.b Required Report Forms

6.8.1 Preparation of Forms

All of the forms listed in Figure 6.b are available through PennDOT's Services to Local Government web page at <http://www.penndot.gov/Doing-Business/LocalGovernment>. Since these forms change from time to time, they are not included in this publication. Only their general purpose and uses are described below. Detailed instructions for their completion can be obtained from your Municipal Services Representative (see Appendix G). The MS-991 form is prepared throughout the year and is due before January 31st for the preceding calendar year.

6.8.1.1 MS-991 Report of County Act 89 Funds

This form requests such information as:

- Balance in the County Act 89 Fund at the beginning of the report calendar year.
- Receipts which must be itemized and include interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.
- Accounts receivable (to be realized within 60 days of the year end).
- Total Act 89 funds available for expenditure and encumbrances.
- Expenditures for county-owned bridges. Expenditures are listed individually, in order by date and voucher number. Required data also include the recipient, purpose, type of expenditure (e.g., maintenance, repair, construction), loans repaid, and grants. PennDOT, PUC, and/or other agreement numbers should be included when applicable. Note: project numbers are assigned by the District Municipal Services Office and are included on the MS-329, Project Approval form.
- Accounts payable (to be paid within 60 days of the year end).
- Balance in the fund at the close of the report calendar year.
- Ending bank balance on hand at the close of the report calendar year.

6.8.1.2 MS-329 Project Approval Form

This form is completed by a Municipal Services Representative when investigating a project. It records the approval of the scope of work and authorizes expenditures for the project from the County Act 89 Fund. The form contains a project number. One copy is given to the county and one copy is retained by the District Municipal Services Office.

6.8.1.3 MS-999 Completion Report

When construction or maintenance project work is completed, the county completes section one and forwards the form to the District Municipal Services Office. All costs associated with the project are included. Municipal Services Representatives complete section two of the form, approving the expenditure of County Act 89 funds.

6.9 EXTENDING A COUNTY'S FUND TO TWO YEARS

A county's handling of its County Act 89 Fund is normally on a year-to-year basis. However, in an emergency and with the prior approval of the District Municipal Services Representative, a county may obligate itself for the expenditure of its estimated receipts from the Act 89 Fund for a period of two years. The county will then receive a credit for such expenditures against such subsequent receipts. Except for this, no county may carryover a credit balance against future receipts from the state from one year to the next.

6.10 AUDIT REQUIREMENT

All County Act 89 funds are audited by the Pennsylvania Department of the Auditor General in accordance with the requirements of Section 403 of the Fiscal Code, 72 P.S. § 403.

APPENDIX A -- GLOSSARY OF TERMS

Act 89 of 2013 - Act 89 of 2013 amends certain sections of Title 74 and Title 75 of the Pennsylvania Consolidated Statutes to enhance the programs available to the Commonwealth's transportation system.

ADA - The Americans with Disabilities Act. Enacted in 1990 to prevent discrimination against persons with disabilities.

Advertisement - Public announcements (newspaper advertisements) required by law or code, inviting bids for work to be performed or for equipment or materials to be purchased.

Alley - A narrow roadway, usually to the rear of abutting properties, designed for the purpose of access to the rear of such properties and not as a thoroughfare and every roadway less than 16 feet in width.

Approved supplier - A supplier of materials or services approved by PennDOT.

Approved material - Any type of material approved for roadway use by PennDOT.

Award - Written acceptance of a proposal or bid.

Bid, consortium - A bid made by a group of municipalities in an effort to get a low bid price based on increased volume, for example, a Council of Governments.

Bituminous Binder Course - A plant hot mix combination of graded mineral aggregate and bituminous tar or cement placed between the base course and the bituminous surface course.

Bituminous Wearing Course - A hot plant mix combining graded mineral aggregate (smaller than binder) and bituminous cement placed over binder as the top road surface.

Bond, bid - A type of surety bond guaranteeing the bidder will execute the contract when awarded and will supply any required performance and payment bonds.

Bond, fidelity (Treasurer's) - A type of surety bond indemnifying against losses from theft, defalcation, or misappropriation of public monies by governmental officials or employees.

Bond, performance - A type of surety agreement that guarantees that the contractor will perform the work in accordance with plans and specifications at the time specified in the contract.

Bond, payment - A type of surety bond ensuring a contractor pays for materials and labor related to the contract.

Borrowing Base - Calculations establishing the base against which the statutory debt limits are applied.

Bridge - A structure, including supports, erected over a depression or obstruction, such as water, highway or railway, and having a track or passageway for carrying traffic or other moving loads.

Bridge Bill/Bridge Bill Capital Budget - Act 235 of 1982 and subsequent amendments, which provide for the authorization of funding for capital projects related to the repair, rehabilitation, or replacement of highway bridges, which are financed from current revenue or by the incurring of debt.

Capital Improvements Program - A capital improvement is a major public facility involving a nonrecurring cost that usually requires a large outlay of capital and brings returns or benefits to the public over a long period of time. A capital improvement may be a physical facility such as land acquisition, construction of municipal buildings, sewage treatment plants and collection lines or other public structures, road construction, large fixed equipment, and other similar expenditures.

Co-STARS - A cooperative purchasing program between the state government and local governments. Formerly known as the Piggy-Back Purchasing Program.

County Liquid Fuels Tax Act - The Liquid Fuels Tax Act of 1931, as codified in Title 75 Pennsylvania Consolidated Statutes, Chapter 90. Provides all counties that are in compliance with PennDOT guidelines with semiannual allocations in June and December of each year. These allocations must be deposited into a separate fund, from which payments may be made for construction, maintenance, and repair of county roads and bridges.

Court - A dead-end roadway designed to provide access to properties abutting thereon, which has a length of less than 250 feet or a vehicle turn-around area with a radius of less than 40 feet.

Council of Governments - A general or multi-purpose organization established by law enabling municipalities to work together on programs in their mutual interest.

Culvert - Any pipe or other structure design used to carry drainage under a roadway. Any structure not classified as a bridge, which provides an opening under a roadway.

Escalator clause - A clause in a contract permitting an adjustment to an item price during a specified period and only if inserted by the municipality.

Forced or Mandatory Distribution - Allocations of County Liquid Fuels Tax Funds by the county to its municipalities is forced or mandatory, if on December 31st the unencumbered balance in the County Liquid Fuels Tax Fund is more than the county's receipts during the preceding twelve months. Distribution must be based on mileage and population of the municipality who have applied.

GASB 34 - Government Accounting Standards Board Proclamation 34 that sets new financial reporting standards for municipalities.

Guiderail - A low barrier placed along the edge of a highway to guide, deflect, or redirect out-of-control motor vehicles.

Home Rule Charter Municipality - A political subdivision that exercises its powers, duties and functions pursuant to a duly adopted written document known as a home rule charter.

Liquid Fuels Tax Municipal Allocation Law (Act 655) - Act 655, dated June 1, 1956, as amended, provides municipalities other than counties (townships, boroughs, cities, towns, and home rule and optional plan governments) with an annual allocation of Liquid Fuels Taxes from the State's Motor License Fund, based on a mileage and population formula, for use on roads and streets for which they are responsible.

Local forces - Permanent or temporary employees of local governments.

Milling - A technique that removes a layer of the asphalt wearing surface in order to restore the grade and cross sections of the roadway.

Non-collusion affidavits - A document that states whether or not the person has been convicted or found liable for any act prohibited by federal or state law in any jurisdiction involving conspiracy or collusion with respect to bidding on any public contract within the last three years.

Oil and chip - A method of seal coating a roadway with asphalt while adding new aggregate.

Overlay - A new bituminous wearing course placed over an existing roadway course.

Pennsylvania Prevailing Wage Act - A law governing labor rates within Pennsylvania for public work, other than maintenance work (as defined in the act), where the estimated cost of the work exceeds \$100,000.

Permit - A written authorization waiving state or municipal regulations or granting permission to perform construction or maintenance work on a state or municipal right-of-way; in addition, a written authorization to operate a vehicle on specified highways issued by the Department and/or local authorities with respect to highways under their respective jurisdiction.

Political subdivision - Any of the following local governmental bodies: counties, townships, boroughs, cities, and incorporated towns, including those operating under home rule charters or optional plans.

Prequalification of bidder - A system used by PennDOT indicating the type of highway project work a contractor or subcontractor has the capacity and qualifications to perform.

Private road - A road owned and maintained by any person or organization that is not a governmental authority.

Project - See Chapter 1, 2, & 4 for definition project refers to work that meets certain minimum requirements and requires preapproval from PennDOT.

Proof of advertising - Copy of published advertisement certified by the publisher.

Reconstruction - The complete removal and replacement of existing road or bridge material, including base and/or surface, or the removal and replacement of a bridge or other structure. Must obtain prior PennDOT approval.

Relocation - Moving or shifting an existing roadway, curbing, or structure to a new location.

Resurfacing - Placing a new surface over an existing roadway surface.

Right-of-way - A strip of land owned by a government agency over which the public has the right of passage, such as streets, parkways, medians, sidewalks, easements and driveways constructed there on.

Road Turnback - State roads or road segments transferred to a political subdivision for jurisdiction and ownership by authority of Act 32 of 1983, codified as Title 75 Pennsylvania Consolidated Statutes, Chapter 92.

Road machinery or equipment - Machinery or equipment primarily used for maintenance, construction, or reconstruction of public roads or streets, including bridges, culverts, and drainage structures for which municipalities are legally responsible.

Roadway/Cartway - That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk, berm, or shoulder.

Scope of work - The type and amount of work to be performed in a project.

Sewer, sanitary - Conduit for carrying sewage.

Sewer, storm - Conduit for draining the road surface.

Shoulder - The graded part of a roadway on each side of the pavement, within the right-of-way.

Statewide emergency - A natural disaster or event affecting the public safety and welfare of the citizens of the Commonwealth of Pennsylvania as declared by the Governor.

Street lighting - Lights usually mounted on poles spaced at intervals along a public street or highway.

Tabulation of bids - A listing of the results of a bid opening.

Traffic control device - Any device used to control traffic for the purpose of aiding in the orderly and predictable movement of motorized and non-motorized traffic.

U.S. Census Bureau - The public entity responsible for coordinating, preparing, and taking the decennial census of the United States.

Utility - An entity which provides a service such as light, power, gas, communications or water.

Viewers, eminent domain - Members of a Board of View appointed by a Judge of the County Court of Common Pleas to make findings of property value.

Way - A short stretch of roadway having both terminals in a street or road and designed to provide access to properties abutting thereon.

Widening - Lateral expansion of a roadway, which does not include an additional lane.

Wing wall - The end part of an abutment wall.

Winter maintenance - Maintenance functions performed during the winter season to keep roadways and structures reasonably safe and passable.

APPENDIX B -- MUNICIPAL SERVICES FORMS

NUMBER	NAME PURPOSE	PURPOSE
MS-329	Project Approval	Documents municipal services approval of local Project activities.
MS-339	Application for County Aid	Local request for Liquid Fuels monies from counties.
MS-340	Application to Encumber	County request to reserve funds for projects, Liquid Fuels Tax Funds which may exceed a calendar year.
MS-903	Treasurer's Account Book	Documents receipts and expenditures of local governments using liquid fuels funds.
MS-907	Weekly-Biweekly/Semimonthly Payroll Report	Documents payroll data for liquid fuel purposes.
MS-944	Contract	Proposal and Contract for the purchase of materials or services in place
MS-950	Change of Secretary and Bonding	Document changes of secretary and Bonding if applicable.
MS-963	Contract	Proposal and Contract for equipment and/or materials only.
MS-965	Actual Use Report of State Funds	Indicates the receipt and expenditure of liquid fuel monies during the calendar year along with, planned use in the subsequent Year and certification of treasurer's bond.
MS-970	Agreement for Rental of Equipment	Proposal and contract for the rental of equipment with operators.
PR-990	Road Mileage and Type Report	Documents detail mileage and type of roads by municipality.
PR-990s	Municipal Road Data Processing Report	Summary of local road mileage and type.
MS-991	Report of County Liquid Fuels Tax	Indicates the receipt, expenditure and encumbrance of liquid fuel funds by counties during the calendar Year.
MS-999	Project Completion	Documentation of the partial of final completion of Report project by contractor and municipality for department approval.
MS-999T	Turnback Completion Report	Documents completion of approved Turnback Project activities.
MS-999TRC	Turnback Record of Checks	Detail listing of expenses reported on MS-999T.
EALA	Electronic Access Licensing Agreement	Security form that must be completed before local government officials may access dotGrants.

Forms used by local government may be found at:

<http://www.penndot.gov/layouts/pa.penndot.formsandpubs/formsandpubs.aspx#.VuL7LqMo6Uk>

APPENDIX C -- ACT NO. 655 OF 1956, JUNE 1, P. L. (1955) 1944, AS AMENDED; 72 P. S. §§ 2615.1—2615.10

Providing a permanent allocation of a part of the fuels and liquid fuels tax proceeds to cities, boroughs, incorporated towns and townships, for their road, street and bridge purposes; conferring powers and imposing duties on local officers and the Department of Transportation Highways; and making an appropriation out of the Motor License Fund; and repealing existing legislation.

Preamble: Whereas, there is an urgent need for a vast construction, reconstruction and modernization program on Pennsylvania's hundred thousand mile public road system; therefore:

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1 (72 P.S. § 2615.1). Declaration of policy

In the interest of better roads for all Pennsylvania and an equitable distribution of funds available for highway purposes for use on local roads and streets as related to the burden of highway traffic thereon and the revenues derived therefrom, the General Assembly finds that it is necessary to provide for a permanent allocation of a part of the highway funds among cities, boroughs, incorporated towns and townships, for the roads and streets for which they are responsible, or in townships of the first class for State highways within their respective boundaries, including drainage facilities.

Section 2 (72 P.S. § 2615.2). Definitions.

As used in this act---

- (1) "Department" means the Department of Transportation.
- (2) "Municipality" means any city, borough, incorporated town or township.
- (3) "Roads and streets" means public roads and streets, including bridges, used for travel by horse drawn and motor vehicles and does not include ways, courts and alleys.
- (4) "Court" means a dead-end roadway designed to provide access to properties abutting thereon which has a length of less than two hundred fifty feet or a vehicle turn-around area with a radius of less than forty feet.
- (5) "Alley" means a narrow roadway, usually to the rear of abutting properties, designed for the purpose of access to the rear of such properties and not as a thoroughfare; and every roadway less than sixteen feet in width.
- (6) "Way" means a short stretch of roadway having both terminals in a street or road and designed to provide access to properties abutting thereon.
- (7) "Computer-related hardware, software and training" means electronic devices and their proper and related programming necessary for the electronic processing of information and the associated instruction requisite for the exclusive operation of those devices.

Section 3 (72 P.S. § 2615.3) Appropriation

An amount equal to twenty per centum of five and one-half cents (5 1/2¢) of all taxes collected on each gallon of liquid fuel under "The Liquid Fuels Tax Act" of May twenty-one, one thousand nine hundred thirty-one (Pamphlet Laws 149), and its amendments, and on each gallon of fuel under the "Fuel Use Tax Act" of January fourteen, one thousand nine hundred fifty-two (Pamphlet Laws 1965), and its amendments, is appropriated out of the Motor License Fund to the municipalities of the Commonwealth on the basis and subject to the provisions hereinafter set forth.

In addition to the above appropriation, an amount equal to fifty per centum of that portion of the tax which exceeds seven cents (7¢) per gallon is appropriated out of the Motor License Fund to the municipalities of the Commonwealth on the same basis and condition as provided above.

Section 4 (72 P.S. § 2615.4). Formula for payment; authorized expenditures; manner of payment

The money hereby appropriated to municipalities shall be paid to the municipalities in accordance with the following formula and subject to the provisions of this act:

- (1) The money hereby allocated shall be paid to the cities, boroughs, towns and townships in accordance with the following formula:

Five-tenths of this allocation divided by the total miles of public roads and streets which are maintained by municipalities	MULTIPLIED BY	The number of miles in the particular municipality.
PLUS		
Five-tenths of this allocation divided by the total official population of the municipalities as of January first of the year in which the money is to be paid to the municipalities	MULTIPLIED BY	The official population of the particular municipality as of January first of said year
(EQUALS)		
(Amount due the particular municipality)		

To be expended by the authorities of the respective municipalities

- (i) for the maintenance, repair, construction or reconstruction of such public roads or streets, including bridges, culverts and drainage structures for which they are legally responsible and including the lining of streams incidental to the drainage of highways, and for the maintenance, repair, construction or reconstruction of curb ramps from a road, street or highway to provide for access by individuals with disabilities consistent with Federal and State law;

- (ii) for the acquisition, maintenance, repair and operation of street signs, traffic signs and traffic signal control systems;
- (iii) for the maintenance, repair, construction or reconstruction of alleys, ways and courts for which they are legally responsible. Where road, bridge, alley, way or court work is performed by the political subdivision the moneys herein allocated may be used only for labor, hiring of equipment, payrolls, purchase of material, including repair parts necessary for the maintenance of equipment, small tools, road drags and snow fences and, in addition, an amount not to exceed twenty per centum of the total annual allocation received by each municipality, may be used for the purchase of road machinery and road equipment; and
- (iv) for the acquisition of computer-related hardware, software and training required for the electronic processing of information concerning the funds appropriated and allocated under this act, including the preparation and electronic submission of the required annual reports for payment certification, provided that expenditures under this sub clause may not exceed one thousand dollars (\$1,000) annually.

No municipality shall receive less than the amount allocated to such municipality during the fiscal year ending June 30, 1969. So much as is necessary of the taxes collected on each gallon of liquid fuels under "The Liquid Fuels Tax Act" and on each gallon of fuel under the "Fuel Use Tax Act" is hereby appropriated out of the Motor License Fund to municipalities of the Commonwealth for the purpose of making any additional payments required under the provisions hereof. Funds hereby appropriated shall be in addition to funds appropriated under the provisions of section three of this act.

(2) Deleted by amendment. 1982, Feb. 5, P.L. 9, No. 4, § 1.

(2.1) Any municipality which issues bonds or obligations in accordance with Article VII-A of the Act of June 25, 1941 (P.L. 159) known as the "Municipal Borrowing Law," exclusively for road or street improvement purposes may expend all or any portion of the allocated money for interest and principal payments and sinking fund charges becoming due on such bonds or obligations.

(3) The moneys allocated in clause (1) shall be paid over, in the manner provided by law, by the department to the respective cities, boroughs, towns and townships, on the first days of July and December, 1956, and the first day of April of each subsequent year.

Section 4.1 (72 P.S. § 2615.4a). Minimum appropriation

If the sum appropriated by section three amounts to less than thirty million dollars (\$30,000,000) annually during the calendar years 1956 or 1957, 1958 or 1959, 1960, 1961, 1962, 1963, 1964 or 1965, there is appropriated for each of said years out of the Motor License Fund an amount equal to the difference between thirty million dollars (\$30,000,000) and the lesser amount provided by section three, which sum shall be paid to the municipalities in accordance with the provisions of section four.

Section 5 (72 P.S. § 2615.5). Qualifications for payments; bonded treasurer; reports; special fund; tax levy

In order to qualify for its share of the moneys herein provided, each city, borough, town and township shall ---

- (1) Furnish evidence, annually, to the department that its treasurer is bonded in accordance with law;
- (2) Submit a report, on forms furnished by the department, concerning the way or ways the funds provided in section one of this act shall be expended;
- (3) Submit a proper report, on forms furnished by the Department of Transportation, on the fifteenth day of January for the period ending December thirty-first each year, showing the cost of work done pursuant to the funds provided in section four clause (1) of this act;
- (4) Establish and maintain a special fund into which the moneys provided in section four clause (1) of this Act shall be deposited and into which no other moneys may be deposited or commingled;
- (5) Furnish evidence to the department that a tax to provide funds for road and street purposes is being levied for the year in which the allocation is made.

Section 6 (72 P.S. § 2615.6). Materials, work; specifications, approval supervision.

All materials used and work done with moneys herein allocated shall conform to the current specifications of the department or specifications approved by the department. All work done on State highways shall be subject to the approval, supervision and control of the department.

Section 7 (72 P.S. § 2615.7). Calculation of mileage; calculations involving population

- (a) The calculation of mileage shall be determined, annually, as of the first day of January by the department from reports submitted by the municipalities.
- (b) The calculations involving population shall be made by the department, and shall be based on the latest available official census figures determined on or before the first day of January in the year the money is to be paid to the municipalities. Where the population of any municipality changes by reason of annexation, withdrawal or dissolution, the department shall not be presumed to have notice of such change until furnished with a statement approved by all affected political subdivisions or with an order of a court of competent jurisdiction.

Section 8 (72 P.S. § 2615.8). Copies of laws and regulations

The department shall make available, to the corporate authorities of the municipalities, copies of the laws with special reference to the pertinent provisions thereof, and regulations relating to the receipt and expenditure of any funds authorized herein.

Section 9 (72 P.S. § 2615.9). Amount allocated

The amount allocated hereby to be paid during the calendar year under section three of this act shall be determined by the amount received by the Commonwealth during the preceding fiscal year from the first four and one-half cents (4½¢) of the taxes and the portion of the taxes exceeding six cents (6¢) on each gallon.

Section 10 (72 P.S. § 2615.10). Lapse of allocation

Any funds appropriated and allocated under the provisions of clause (1) of section four of this act, withheld from any municipality for failure to comply with any of the provisions of this act for a period of two years, shall lapse.

APPENDIX D

CHAPTER 449. LIQUID FUELS TAX FUNDS

Sec.

- 449.1 Purpose and policy.
- 449.2 Definitions.
- 449.3 Advertising, bidding, and bond requirements.
- 449.4 Exceptions to Department specifications.
- 449.5 Failure to receive bids.
- 449.6 Escalator clause in contracts, materials purchases, and equipment purchases.
- 449.7 Purchase of materials and equipment.
- 449.8 Equipment rental.
- 449.9 Construction and maintenance contracts.
- 449.10 Investment of funds, use of loan or bond issue proceeds.
- 449.11 Twenty percent funds.
- 449.12 Annual qualification.
- 449.13 Annual maintenance payments under Section 9511 of the Vehicle Code.

Authority

The provisions of this Chapter 449 issued under act of June 1, 1956 (P.L. (1955) 1944, No.655) (72 P.S. §§ 2615.1---2615.4), unless otherwise noted.

Source

The provisions of this Chapter 449 adopted December 12, 1975, effective December 13, 1975, Pa.B. 3200, unless otherwise noted.

§ 449.1 Purpose and policy.

This chapter is promulgated for the purpose of effecting the fair and uniform administration of the provisions of act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1 - 2615.10) and 75 Pa. C.S. § 9511 (relating to allocation of proceeds), which provide a permanent allocation of a part of the liquid fuels, fuels and oil company franchise tax proceeds to cities, boroughs, incorporated towns and townships, for their road, street and bridge purposes.

Authority

The provisions of this § 449.1 issued under act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1---2615.10); the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511.

Source

The provisions of this § 449.1 amended March 2, 1984, effective March 3, 1984, 14 Pa.B. 732. Immediately preceding text appears at serial page (73613).

§ 449.2 Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicated otherwise:

Alley - A narrow roadway, usually to the rear of abutting properties, designed for the purpose of access to the rear of such properties and not as a thoroughfare; and every roadway less than 16 feet in width.

Court - A dead end roadway designed to provide access to properties abutting thereon which has a length of less than 250 feet or a vehicle turnaround area with a radius of less than 40 feet.

Department - The Department of Transportation of the Commonwealth.

Intergovernmental agencies - Councils of government, area governments or other affiliation of governments or government agencies as are authorized by 62 Pa. C.S. Chapter 19 (relating to intergovernmental relations) to participate in, sponsor, conduct or administer a cooperative purchasing agreement and which expend public monies for the procurement of supplies, services and construction.

Person - Individual, partnership, or corporation; contracts with two or more companies owned or operated by the same person are regarded as one contract.

Road machinery and road equipment - Any machinery or equipment used primarily for the maintenance, repair, construction or reconstruction of public roads or streets, including bridges, culverts, and drainage structures for which municipalities are legally responsible.

Roadway - That portion of a street or highway between the side ditch lines, face of curbs, outside edge of shoulders and gutters, or combination thereof, exclusive of slope areas.

Secretary - The Secretary of Transportation.

Way - A short stretch of roadway having both terminals in a street or road and designed to provide access to properties abutting thereon.

Way, court, and alley - Any way, court or alley established after the effective date of this chapter will not be recognized as a road or street for the purposes of Liquid Fuels Tax participation.

Authority

The provisions of this § 449.2 amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No.655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.2 amended July 21, 1978, effective July 22, 1978. 8 Pa.B. 2075; amended through October 10, 1980, effective October 11, 1980. 10 Pa.B. 4038; amended May 16, 2003, effective May 17, 2003. 33 Pa.B. 2378. Immediately preceding text appears at serial pages (240957) to (240958).

§ 449.3 Advertising, bidding, and bond requirements.

Advertising, bidding and a performance bond are required by statute on purchases and contracts in excess of \$10,000, with certain exceptions indicated in subsection (b). See: sections 1.1 and 1.2 of the act of March 7, 1901 (P.L. 20, No. 14) (53 P.S. §§ 23308.1 and 23308.2); sections 1901--1918 of the act of June 23, 1931 (P.L. 932, No. 317) (53 P.S. §§ 36901--36918); sections 1401--1411 of the act of February 1, 1966 (P.L.(1956) 1656, No. 581) (53 P.S. §§ 46401--46411); the act of May 27, 1953 (P.L. 244, No.34) (53 P.S. §§ 53201--53209); sections 1801--1811 of the act of June 24, 1931 (P.L. 1206, No. 331) (53 P.S. §§ 56801--56811); sections 801--808 of the act of May 1, 1933 (P.L. 103 , No.69) (53P.S. §§ 65801--65809): and the Public Works Contractors' Bond Law of 1967 (8 P.S. §§ 191--202).

(b) Evasion prohibited.

While it is lawful to make a purchase or contract for up to \$10,000 without advertising and bidding, it is unlawful to enter into several less-than-\$10,000 contracts with the same person or with several persons merely for the purpose of evading advertising and bidding requirements.

(c) Bonds.

Bonds shall include the following:

(1) Bid Bond.

A bid bond guarantees that the bidder will execute the contract in the event he is declared the winning bidder.

(2) Performance Bond.

A performance bond guarantees that work, materials, and equipment will be provided at the time specified in the contract; however, a performance bond does not guarantee the quality of the work, materials, and equipment.

(3) Payment Bond.

A payment bond guarantees that the contractor or supplier will pay his workers, subcontractors, and suppliers,

(d) Emergency exception to advertising and bidding requirements.

Whenever municipal officials determine that an emergency condition exists rendering it essential to undertake immediate repair or maintenance work to protect the health, safety, or welfare of the people, such emergency work may be contracted for by the municipality without the necessity of advertising for competitive bids for the project.

(1) An emergency which will warrant dispensing with advertising for competitive bids must be immediate, unforeseen, and existing. A condition which may or may not arise in the future or a condition which should reasonably have been foreseen in time to advertise for bids will not warrant dispensing with normal advertising and bidding requirements.

(2) The determination of the emergency and the actions of the municipal officials in contracting for emergency work must be fully documented for department review.

(e) Exception to advertising, bidding, and bonding requirements for Home Rule Charter Municipalities.

In the case of any municipality which has adopted a home rule charter, the Department will recognize charter provisions which are contrary to the advertising, bidding, and bonding requirements set forth in this chapter or in the various municipal codes.

(f) Brand names.

In advertising for equipment to be rented or purchased, or for materials to be purchased or delivered in place, it is unlawful to require or specify any particular make or brand thereof, thereby excluding other makes or brands. A particular brand name or its equivalent may be specified if equal consideration is given to all brands which are reasonably similar to the specified brand. Such specifications shall be reasonable and not merely imposed in order to exclude some brands of equipment or material in favor of other brands.

Authority

The provisions of this §449.3 issued under The Administrative Code of 1929 (71 P.S. §§ 511.3, 512 and 513); and act of June 1, 1956 (P.L. (1955) 1944, No.655) (72 P.S. §§ —2615.10); amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and the act of June 1, 1956 (P.L. (1955) 1944 No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.3 amended through August 20, 1982 effective August 21, 1982, 12 Pa. B. 2802; amended May 16, 2003, effective May 17, 2003, 33 Pa. B. 2378. Immediately preceding text appears at serial pages (240958) to (240959).

§ 449.4 Exceptions to Department specifications.

(a) General Rule.

The Department specifications, as set forth in the current Publication 408, and supplements, apply to all purchases and contracts with the following exceptions:

- (1) Pre-qualification of bidders under Section 102.01 of Publication 408 is not required, except on projects funded in part with State highway funds other than liquid fuels tax funds or with Federal-aid highway funds. See chapter 457 (relating to prequalification of bidders). Section 106.01 of Publication 408, relating to control of materials and approval of sources, does apply to all purchases and contracts.
- (2) Marshal testing to determine the quality of bituminous paving materials (see Pennsylvania Test Method (PTM) 705) is not required if the material is produced in accordance with the master design approved by the Department (see Department Bulletin 27).
- (3) Tailgate-type spreaders, for example, Temple spreaders, may be utilized for applying aggregate for surface treatment, seal coat, and the like.

(b) Pre-approved waiver.

The municipality may request the Department to waive other Department specifications in advance of advertising. Any such pre-approved waiver of specifications must be noted in the bid proposal.

(c) Bituminous paving material equipment.

All machinery, equipment, and plants used in producing or applying bituminous paving materials, whether purchased with 20% funds or rented, shall be of a type approved by the Department.

Source

The provisions of this § 449.4 amended through January 20, 1984, effective January 21, 1984. 14 Pa.B. 232. Immediately preceding text appears at serial page (73616).

§ 449.5 Failure to receive bids.

If a purchase or contract over \$10,000 is advertised and no bids are received, the municipality may not proceed with the purchase or contract unless it is again advertised for bids. If again no bids are received, the municipality may negotiate the purchase or contract on the best terms available within 45 days of the second advertisement if no substantial changes are made in the terms, conditions and specifications contained in the bid proposal. If substantial changes must be made to procure the purchase or contract, the purchase or contract shall be re-advertised and bid on the basis of the changes. NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

Authority

The provisions of this § 449.5 issued under The Administrative Code of 1929 (71 P. S. § § 511.3, 512 and 513); and act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § § 2615.1—2615.10); amended under the Vehicle Code, 75 Pa.C.S. § § 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § § 2615.1—2615.10).

Source

The provisions of this § 449.6 amended through January 20, 1984, effective January 21, 1984, 14 Pa.B. 232. Immediately preceding text appears at serial pages (73617) and (73618).

§ 449.6 Escalator clause in contracts, material purchases and equipment purchases.

There is no requirement for an escalator clause in any contract. However, if, after reasonable inquiry, the municipality, by resolution adopted at a public meeting, determines that it is unlikely that flat unit price bids will be obtainable for certain materials or equipment, the municipality may prepare and insert an escalator clause in the bid proposal to provide that the price of such materials and equipment will increase or decrease over the bid price if and when the cost to the contractor of the materials and equipment or any material ingredient thereof increases or decreases, as a result of a general price increase or decrease by the supplier of the contractor and in an amount directly related to such increase or decrease. An escalator clause is optional; however, if used, it must be included in the bid proposal prepared by the municipality. An escalator clause may not be inserted by the contractor.

Source

The provisions of this § 449.6 amended through January 20, 1984, effective January 21, 1984, 14 Pa.B. 232. Immediately preceding text appears at serial pages (73617) and (73618).

§ 449.7 Purchase of materials and equipment.

(a) Advertisement.

The advertisement for any purchases, whether to be picked up or delivered or, in the case of materials, to be applied in place, shall contain a reasonably complete description and estimated quantities of the major items or categories of items. The advertisement shall also indicate the requirement of a bid or performance bond or both.

(b) Proposal.

The proposal shall contain the approximate number of items or tons, gallons, square yards, the metric equivalent, or other standard unit of measure, required, and as reasonably estimated by the municipality.

- (1) The bidder shall insert in the proposal:
 - (i) The unit price of each item.
 - (ii) The total price for each item (quantity X unit price).
 - (iii) The total price for any group of items which the proposal stipulates shall be supplied by a single bidder.
- (2) Bids, without quantities, are not acceptable.
- (3) Only like items may be required to be supplied by a single bidder.
 - (i) If this requirement is imposed, the proposal shall so indicate.
 - (ii) It is not permissible to require a single supplier to provide both tars and asphalts.
 - (iii) When tar is to be bid, it is not permissible to specify coal tar or to specify water tar.
- (4) Liquid asphalt must be purchased by one of the following:
 - (i) Weight.
 - (ii) Volume (gallons or liters) at 60°F or 15.5°C. Use the conversion table contained in Department Bulletin 25, Publication # 27.

(c) Bonds.

On purchases over \$10,000, suppliers shall provide bonds in accordance with the following chart:

BOND REQUIREMENTS FOR PURCHASE OF MATERIALS AND PURCHASE OR RENTAL OF EQUIPMENT					
	First, Second, & 2A- Class Cities	Third Class Cities	Boroughs	First Class Townships	Second Class Townships
Bid Bond	*	Discretionary with council in a reasonable amount. (53 P.S. § 36901(f))	Discretionary with council, in an amount determined by council. (53 P.S. § 46402 (b)(1))	Not required	Not required
Performance Bond	*	Bond or irrevocable letter of credit, in amount sufficient to council, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P.S. § 36901(g))	At council's discretion. If required, not less than 10% or greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P.S. § 46402 (c))	Not less than 10% nor greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by township commissioners. (53 P.S. § 56802(c))	Not less than 10% or greater than 100%, as specified by township supervisors, furnished within 20 days of award. (53 P.S. § 68102 (g))

* See appropriate municipal code or charter.

NOTE: The provisions of the Public Works Contractors' Bond Law of 1967 may supersede requirements of municipal codes. Consult with the appropriate statutes or consult with the appropriate municipal solicitor, or both, regarding bonding for a particular contract or project.

[The material within these brackets is not part of 67 Pa. Code § 449.7(c) and is provided for informational purposes only. The Public Works Contractors' Bond Law of 1967, as amended, 8 P.S. §§191-202, is attached as Appendix J. For contracts in excess of \$10,000 involving activities to which this law applies, the contractor must furnish financial security, as described in the law, equal to 100 percent of the contract amount, to assure faithful performance of the contract and prompt payment for materials furnished or labor supplied.]

(d) Annual estimate of materials.

Each municipality shall make an annual estimate of its requirements of road construction and maintenance materials, and shall advertise for bids on all items and groups of like items ordinarily supplied by a single supplier – see subsection (b)(3) – which are estimated to exceed \$10,000 for the year. For material estimates between \$4,000 and \$10,000, three telephone price quotes shall be obtained prior to the selection of a supplier. In lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations until a satisfactory audit of the contract is completed by the Department of the Auditor General. If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000, or if the cost was between \$4,000 and \$10,000 and three price quotes were not obtained, the entire cost shall be ineligible for payment from the Liquid Fuels Tax Fund unless it can be shown to the satisfaction of the Secretary that it was reasonably believed that the cost of the year's requirements of that item or group of like items would not exceed \$10,000 or be between \$4,000 and \$10,000 as specified in this section.

NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

(e) Purchases through Department of General Services or intergovernmental agencies.

Advertising, bidding, and bonding requirements do not apply to “piggy-back” purchases from suppliers under contract with the Department of General Services or Intergovernmental agencies. Compliance by an intergovernmental agency with the advertising and bonding requirements in this chapter shall be sufficient to relieve a municipality cooperating in the same purchasing agreement from compliance with the advertising, bidding, and bonding requirements.

(f) Purchases of gasoline subject to Federal Energy Administration regulations.

Advertising, bidding, and bonding requirements do not apply to gasoline purchases which Federal Energy Administration Regulations require be made from specified suppliers if a municipality utilizes 84,000 gallons or more a year.

Authority

The provisions of this § 449.7 issued under The Administrative Code of 1929 (71 P.S. §§ 511.3, 512 and 513); and act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10); amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.7 amended through August 20, 1982, effective August 21, 1982, 12Pa.B. 2802; amended May 16, 2003, effective May 17, 2003, Pa.B. 2378. Immediately preceding text appears at serial pages (240961) to (240962).

Cross References

This section cited in 67 Pa. Code § 449.8 (relating to equipment rental).

§ 449.8 Equipment rental.

(a) General rule.

A contract in excess of \$10,000 for the rental of equipment shall be advertised, bid and bonded and a contract between \$4,000 and \$10,000 shall be awarded only after three telephone price quotes are obtained, unless the work is performed by the municipality's own employee forces. For contracts between \$4,000 and \$10,000, in lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations until a satisfactory audit of the contract is completed by the Department of the Auditor General. NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

- (1) The advertisement shall contain a reasonably complete description of the type of equipment, approximate length of time the equipment will be required and whether the equipment shall be provided with operators.
- (2) The proposal shall contain the approximate number of hours, days, and the like that the equipment will be required, as reasonably estimated by the municipality.
- (3) Annual contracts for equipment rental and labor shall be permitted.
- (4) On equipment rental contracts over \$10,000, suppliers shall provide bonds in accordance with the chart in § 449.7(c) (relating to purchase of materials and equipment). NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)
- (5) If rented equipment is subsequently purchased, any rental paid in excess of an annual rate of 25% of the value of the equipment shall be regarded as a part of the purchase price in determining if the purchase must be advertised and bid.

(b) “Local forces” defined.

“Local forces” are defined as follows:

- (1) For the local forces exception to apply to equipment rented with operators, it must be shown that more than one half of the total man-hours of work on the project will be performed by municipal employees.
- (2) Bona fide temporary employees of the municipality shall be counted as municipal employees. Employees of a contractor placed on the payroll of a municipality for the duration of a project will not be recognized as municipal employees.
- (3) To substantiate a determination that a project is a local forces job, all man-hours shall be identified on payroll records.

(c) Lease-purchase contracts of equipment.

When equipment is rented for general street and highway construction and maintenance use, rather than for a particular project, it may be desirable to enter into a lease containing a purchase option.

- (1) If the total amount of the lease-purchase agreement, including trade-in allowance, all rentals and the amount paid under the purchase option exceeds \$10,000, advertising, bidding and a performance bond are required. NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

(2) The only Liquid Fuels Tax funds which may be used for a lease-purchase agreement is the 20% portion reserved for the purchase of equipment.

(3) Equipment purchased with Liquid Fuels Tax funds shall be used primarily for street and highway use.

Authority

The provisions of this § 449.8 issued under The Administrative Code of 1929 (71 P.S. § 511.3, 512 and 513); and act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10); amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.8 amended through August 20, 1982, effective August 21, 1982, 12 Pa.B. 2802; amended May 16, 2003, effective May 17, 2003, 33 Pa.B. 2378. Immediately preceding text appears at serial pages (240962) to (240963).

§ 449.9 Construction and maintenance contracts.

(a) Cost comparison.

Before deciding to pave a road or street by purchasing materials and renting equipment with operators, the municipality should compare the cost of having the job done by contract.

(b) Advertisement.

The advertisement for a construction or maintenance contract shall contain a reasonably complete description of the project, including the scope of the project and the type of work involved, as well as bond requirements as indicated in subsection (f).

(c) Proposal.

The proposal shall contain the approximate number of tons or square yards of materials or the metric equivalents, required, as reasonably estimated by the municipality. The bidder shall insert:

- (1) The unit price for each item.
- (2) The total price for each item (quantity X unit price).
- (3) The total price for any group of items, as to which the proposal requires a total or subtotal.

(d) Lump sum bids.

In special cases, the Director of the Bureau of Municipal Services of the Department may approve lump sum bids in lieu of the procedure in subsection (c).

NOTE: The Bureau of Municipal Services was absorbed into the PennDOT Office of Planning. In special cases, the lump sum bids may be approved by the PennDOT Office of Planning.

(e) Prevailing wage requirements.

If the estimated cost of a construction contract, as defined in the memorandum of understanding between the Department, the Department of labor and Industry, and the former Department of Justice, exceeds \$100,000, the municipality shall:

- (1) Determine the prevailing minimum wage rates from the Prevailing Minimum Wage Division of the Department of Labor and Industry.

- (2) Indicate in the advertisement issued for the purpose of securing bids for the contract that prevailing wage rates shall be paid on the project.
- (3) Specify the prevailing minimum wage rates in the bid proposals for the contract.

(f) Bonds.

Construction and maintenance contractors are required to provide bonds in accordance with the following chart:

BOND REQUIREMENTS FOR CONSTRUCTION AND MAINTENANCE					
	First, Second, & 2A- Class Cities	Third Class Cities	Boroughs	First Class Townships	Second Class Townships
Bid Bond	*	Requirement and reasonable amount discretionary with council. (53 P.S. § 36901(f))	Discretionary with council, in an amount determined by council. (53 P.S. § 46402(b)(1))	Not required	Not required
Performance Bond over \$10,000	*	Bond or irrevocable letter of credit, in amount sufficient to council, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P.S. § 36901(g))	At council's discretion. If required, not less than 10% or greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by Council. (53 P.S. § 46402(c))	Not less than 10% nor greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by township commissioners. (53 P.S. § 46402(c))	Not less than 10% or greater than 100%, as specified by township supervisors, furnished within 20 days of award. (53 P.S. § 68102(g))
Payment Bond over \$1,500	*	50% to 100% at discretion of city. (53 P.S. § 36907)	50% to 100% at discretion of the borough. (53 P.S. § 46406)	50% to 100% at discretion of township. (53 P.S. § 56804)	Not required unless covered under Public Works Contractors' Bond Law of 1967. (53 P.S. § 68105)

* See appropriate municipal code or charter.

NOTE: The Public Works Contractors' Bond Law of 1967 may supersede requirements of municipal codes. Please consult the appropriate statutes or consult with the appropriate municipal solicitor, or both, regarding bonding requirements for a particular contract or project.

(g) Payment of engineering fees.

Reasonable engineering fees in connection with any contract made by a municipality under this chapter shall be payable out of the Liquid Fuels Tax fund of the municipality. Any such fees in excess of 10% of the total contract price shall be documented and justified to the satisfaction of the Department.

Authority

The provisions of this § 449.9 issued under The Administrative Code of 1929 (71 P.S. §§ 511.3, 512 and 513); and act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10); amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.9 amended through November 19, 1982, effective November 20, 1982, 12 Pa.B. 3984; amended May 16, 2003, effective May 17, 2003. 33 Pa.B. 2378. Immediately preceding text appears at serial pages (240964) to (240965).

§ 449.10 Investment of funds, use of loan, or bond issue proceeds.

(a) Liquid fuels tax account.

All monies in the liquid fuels tax account may be invested so as to earn interest until expended and may be combined with other municipal funds for investment.

(b) Loans or bonds.

All proceeds of any loan or bond issue made for road or street improvement purposes must be used exclusively for road or street improvement purposes. A single loan or bond issue shall not be made for both a road or street improvement purpose and a nonrelated purpose.

Source

The provisions of this § 449.10 amended April 13, 1979, effective April 14, 1979. 9 Pa. B. 1308.

§ 449.11 Twenty percent funds.

(a) Accumulation of 20% funds.

A municipality may accumulate its road machinery and road equipment funds — 20% funds— over a period of years subject to the following limitations:

- (1) The full amount of 20% funds to be carried over from one year to the next shall be on deposit in the Liquid Fuels Tax account at the end of the calendar year, and shall be carried as part of the maintenance fund balance as reported on Form MS-965.
- (2) If 20% funds are accumulated in an amount in excess of 100% of the most recent Liquid Fuels Tax allotment, the municipal budget shall indicate the kind of road machinery or road equipment which the municipality plans to purchase.

(b) Payment of loans with 20% funds.

Loans or bond issues made to finance the purchase of road machinery and road equipment may be repaid from 20% funds.

(c) Reimbursement of general fund expenditures with 20% funds.

Expenditures from the general fund made to finance the purchase of road machinery and road equipment purchased on or after August 6, 1971, may be reimbursed from 20% funds in the same or subsequent years.

Authority

The provisions of this § 449.11 amended under the Vehicle Code, 75 Pa. C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.11 amended May 16, 2003, effective May 17, 2003, 33 Pa.B. 2378. Immediately preceding text appears at serial pages (240965) to (240966). Add Section 449.12 and 449.13 as provided.

§ 449.12 Annual qualification.

(a) Requirements. To qualify for its annual Liquid Fuels Tax allocation, each municipality shall submit to the Department the following documents and information:

A municipality may accumulate its road machinery and road equipment funds — 20% funds— over a period of years subject to the following limitations:

- (1) Evidence that its treasurer is bonded in accordance with law, or that its treasurer is a bank requiring no bond. This information is due on or before January 31 each year and shall be submitted on Department Form MS-965
- (2) A report indicating the manner in which its liquid fuels tax allocation was expended in the preceding year, the manner in which it plans to expend its Liquid Fuels Tax allocation in the current year and the amount of funds for road and street purposes to be raised by the levying of taxes in the current year. This information shall be due on or before January 31 each year on Department Form MS-965.
- (3) A report of all elected and appointed officials, indicating the official and address to which Liquid Fuels Tax allocations and correspondence shall be forwarded. This information is due on or before January 31 each year and shall be submitted on the appropriate Department of Community and Economic Development forms:
 - (i) Form DCED-CLGS-19-2 for Cities.
 - (ii) Form DCED-CLGS-19-3 for Boroughs.
 - (iii) Form DCED-CLGS-19-4 for First Class Townships.
 - (iv) Form DCED-CLGS-19-5 for Second Class Townships.
- (4) A copy of Form DCED-CLGS-69 (survey of financial condition). This completed form must be received by the Department of Community and Economic Development by March 15 each year.

- (b) **Waiver.** The Secretary, for good cause, may waive any of these requirements as prerequisites to qualification for the annual Liquid Fuels Tax allocation.

Authority

The provisions of this § 449.12 amended under the Vehicle Code, 75 Pa.C.S. § § 6103 and 9511; and sections 1 — 10 of the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § § 2615.1 — 2615.10).

Source

The provisions of this § 449.12 amended through January 20, 1984, effective January 21, 1984, 14 Pa.B. 232; amended May 16, 2003, effective May 17, 2003, 33 Pa.B. 2378. Immediately preceding text appears at serial page (240966).

§ 449.13. Annual maintenance payments under section 9511 of the Vehicle Code.

Annual maintenance payments under 75 Pa.C.S. § 9511 (relating to allocation of proceeds) shall be deposited into the municipality's liquid fuels tax account, and may be used on any streets and highways in the municipality in the same manner and subject to the same restrictions as liquid fuels tax funds paid under section 2615 of the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § 2615).

Authority

The provisions of this § 449.13 issued under the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § § 2615.1 — 2615.10); the Vehicle Code, 75 Pa.C.S. § § 6103 and 9511.

Source

The provisions of this § 449.13 adopted March 2, 1984, effective March 3, 1984, 14 Pa.B. 732.

**APPENDIX E – SECTION 9511 OF VEHICLE CODE, 75
PA. C.S. § 9511**

**ADDED BY ACT NO. 1981-35 AND AMENDED BY ACT 1983-32,
1984-148, 1992-31, 1993-58, 1994-3 AND 2006-70 AND
AMENDED BY ACT 89 OF 2013**

§ 9511. Allocation of Proceeds

(a) Deposit in Motor License Fund. –Unless otherwise provided in this title, all taxes, interest and penalties imposed by this chapter shall be deposited in the Motor License Fund.

(b) State Highway Transfer Restoration Restricted Account and local bridges. – The amount of the proceeds deposited in the Motor License Fund pursuant to this chapter which is attributable to three mills of the tax imposed under section 9502(a) (relating to imposition of tax) shall be deposited as follows:

(i) For fiscal year 2013-2014 through fiscal year 2016-2017, as follows:

- (A) Twenty-seven million dollars shall be deposited in the State Highway Transfer Restoration Restricted Account within the Motor License Fund. The funds deposited in the State Highway Transfer Restoration Restricted Account shall be appropriated annually for expenditure as provided under subsection (g).
- (B) All funds not deposited in accordance with clause (A) shall be deposited in the Highway Bridge Improvement Restricted Account within the Motor License Fund for local bridges, notwithstanding if the project is administered by a county, municipality or the department.

(ii) For fiscal year 2017-2018 and each fiscal year thereafter, as follows:

- (A) One and one-half mill shall be deposited in the State Highway Transfer Restoration Restricted Account within the Motor License Fund, which account is hereby created. The funds deposited in the State Highway Transfer Restoration Restricted Account are hereby annually appropriated out of the account upon authorization by the Governor for expenditure as provided in subsection (g).
- (B) One and one-half mill shall be deposited in the Highway Bridge Improvement Restricted Account within the Motor License Fund for local bridges, notwithstanding if the project is administered by a county, municipality or the department.

(c) Basic allocation to municipalities. – An amount equal to 20% of the proceeds deposited in the Motor License Fund pursuant to the "oil company franchise tax for highway maintenance and construction" which is attributable to 35 mills of the tax imposed under section 9502(a) is hereby appropriated out of the Motor License Fund to municipalities of this Commonwealth on the basis of and subject to the provisions of the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law.

(d) Additional allocation to municipalities. – In addition, an amount is hereby appropriated out of the Motor License Fund to municipalities of this Commonwealth on the basis of and subject to the provisions of the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law, equal to the amount that would be necessary to increase the portion of the liquid fuels and fuel use taxes distributed by such act to 20% of that which is deposited in the Motor License Fund from all liquid fuels and fuel use taxes.

(e) Allocation to cities of the first class. – In addition, an amount is hereby appropriated annually out of the Motor License Fund to cities of the first class equal to the difference between the increased amounts allocated to cities of the first class resulting from subsections (c) and (d) and 2% of oil company wholesale revenues from sales of gasoline delivered to retail outlets in cities of the first class, as determined by the Pennsylvania Secretary of Revenue in developing the official revenue estimate for the "oil company franchise tax for highway maintenance and construction." Such funds shall be used exclusively for maintenance, construction or reconstruction of highways and bridges within cities of the first class.

(e.1) Allocation to municipalities for traffic signals. – In addition, up to \$10,000,000 for fiscal year 2014-2015, up to \$25,000,000 for fiscal year 2015-2016 and up to \$40,000,000 for fiscal year 2016-2017 and each fiscal year thereafter, is appropriated out of the Motor License Fund to replace, synchronize, time, operate and maintain traffic signals within traffic corridors consistent with 74 Pa.C.S. Ch. 92 (relating to traffic signals). The funds shall be used and allocated in accordance with the following:

- (1) During fiscal year 2014-2015, up to \$10,000,000 is allocated to municipalities for upgrading traffic signals to light-emitting diode technology and for performing regional operations such as retiming, developing special event plans and monitoring traffic signals.
- (2) During fiscal year 2015-2016, up to \$25,000,000 shall be allocated to municipalities for upgrading traffic signals to light-emitting diode technology, performing regional operations such as retiming, developing special event plans and monitoring traffic signals and for maintaining and operating traffic signals.
- (3) During fiscal year 2016-2017 and each fiscal year thereafter, up to \$40,000,000 shall be allocated to municipalities for upgrading traffic signals to light-emitting diode technology, performing regional operations such as retiming, developing special event plans and monitoring traffic signals and for maintaining and operating traffic signals.
- (4) Financial assistance under this section shall be matched by municipal or private cash funding in an amount not less than 50% of the amount of the financial assistance being provided.
- (5) The department shall establish guidelines for applications and approval of applications from municipalities for the financial assistance being provided. Applicants must enter into agreements provided for under 74 Pa.C.S. Ch. 92. Priority will be given to multimunicipal improvements.

(f) Basic allocation to highway maintenance. – An amount equal to the proceeds of 23 mills of the "oil company franchise tax for highway maintenance and construction" for the fiscal year 1983-1984 shall be dedicated to the maintenance of any State highways and shall be in addition to any funds currently dedicated to the maintenance of any State highways. For fiscal year 1984-1985 and thereafter, an amount equal to the proceeds of 22 mills of the "oil company franchise tax for highway maintenance and construction" shall be dedicated to the maintenance of any State highway and shall be in addition to any funds currently dedicated to the maintenance of any State highways.

(g) Use of funds in the State Highway Transfer Restoration Restricted Account.– The funds appropriated in subsection (b) for deposit in the State Highway Transfer Restoration Restricted Account shall be used to pay for the costs of restoration of such highways as provided in Chapter 92 (relating to transfer of State highways) and annual payments to the municipalities for highway maintenance in accordance with the following:

- (1) Annual maintenance payments shall be at the rate of \$4,000 per mile for each highway or portion of highway transferred under Chapter 92, section 222 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law, or any statute enacted in 1981.
- (2) Annual maintenance payments shall be paid at the same time as funds appropriated under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law, except that no maintenance payment shall be paid for a highway until after the year following its transfer to the municipality.
- (3) Annual maintenance payments under this subsection shall be in lieu of annual payments under the Liquid Fuels Tax Municipal Allocation Law.
- (4) Annual maintenance payments under this subsection shall be deposited into the municipality's liquid fuels tax account and may be used on any streets and highways in the municipality in the same manner and subject to the same restrictions as liquid fuels tax funds paid under the Liquid Fuels Tax Municipal Allocation Law or, in the case of a county, under section 10 of the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act.

(h) Allocation to Pennsylvania Turnpike Commission.—An amount equal to 14% of the proceeds deposited in the Motor License Fund pursuant to the "oil company franchise tax for highway maintenance and construction" imposed under section 9502(a)(2), which amount is to be distributed under section 9502(a)(2)(vi) for toll roads designated under the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, is hereby appropriated monthly to the Pennsylvania Turnpike Commission. The Commonwealth does hereby pledge to and agree with any person, firm or corporation acquiring any bonds to be issued by the Pennsylvania Turnpike Commission and secured in whole or in part by a pledge of the portion of the tax known as the "oil company franchise tax for highway maintenance and construction" which is imposed by section 9502(a)(2) and distributed in the manner indicated in that section, including 14% for toll roads designated under the Turnpike Organization, Extension and Toll Road Conversion Act, that the Commonwealth will not limit or alter the rights vested in the Pennsylvania Turnpike Commission to the appropriation and distribution of such tax revenues.

(i) Refund to Pennsylvania Fish and Boat Commission.—

- (1) When the tax imposed by section 9502(a)(1), (2), (3) and (4) has been paid and the fuel on which the tax has been imposed has been consumed in the operation of motorboats or water craft upon the waters of this Commonwealth, including waterways bordering this Common

wealth, the full amount of the tax shall be refunded to the Boat Fund on petition to the Board of Finance and Revenue in accordance with prescribed procedures.

- (2) In accordance with the procedures, the Pennsylvania Fish and Boat Commission shall biannually calculate the amount of liquid fuels consumed by the motorcraft and furnish the information relating to its calculations and data as required by the Board of Finance and Revenue. The Board of Finance and Revenue shall review the petition and motorboat fuel consumption calculations of the commission, determine the amount of the oil company franchise tax paid and certify to the State Treasurer to refund annually to the Boat Fund the amount so determined. The department shall be accorded the right to appear at the proceedings and make its views known.
- (3) For the fiscal years commencing July 1, 2013, July 1, 2014, July 1, 2015, July 1, 2016, and July 1, 2017, the money under paragraph (2) shall be used by the commission acting by itself or by agreement with other Federal and State agencies only for the improvement of hazardous dams impounding waters of this Commonwealth on which boating is permitted, including the development and construction of boating areas and the dredging and clearing of water areas where boats can be used. The commission shall present its plan no later than September 30 of each year through September 30, 2017, to the chairman and minority chairman of the Transportation Committee and the chairman and minority chairman of the Game and Fisheries Committee of the Senate and the chairman and minority chairman of the Transportation Committee and the chairman and minority chairman of the Game and Fisheries Committee of the House of Representatives regarding the use of the funds. For the fiscal year commencing July 1, 2018, and for each fiscal year thereafter, this money shall be used by the commission acting by itself or by agreement with other Federal and State agencies only for the improvement of the waters of this Commonwealth on which motorboats are permitted to operate and may be used for the development and construction of motorboat areas; the dredging and clearing of water areas where motorboats can be used; the placement and replacement of navigational aids; the purchase, development and maintenance of public access sites and facilities to and on waters where motorboating is permitted; the patrolling of motorboating waters; the publishing of nautical charts in those areas of this Commonwealth not covered by nautical charts published by the United States Coast and Geodetic Survey or the United States Army Corps of Engineers and the administrative expenses arising out of the activities; and other similar purposes.

(July 22, 1983, P.L.122, No.32, eff. 15 days; July 10, 1984, P.L.704, No.148, eff. imd.; Apr. 16, 1992, P.L.169, No.31, eff. 60 days; July 2, 1993, P.L.408, No.58, eff. imd.; Feb. 10, 1994, P.L.20, No.3, eff. 60 days; July 7, 2006, P.L.341, No.70, eff. 60 days; Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

2013 Amendment. Act 89 amended subsecs. (b) and (g) and added subsecs. (e.1) and (i). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

1994 Amendment. Act 3 amended subsec. (h). The amendment by Act 3 is identical to the amendment by Act 58 of 1993 and therefore the text has been merged.

1993 Amendment. See section 10 of Act 58 in the appendix to this title for special provisions relating to use of Motor License Fund appropriations.

1992 Amendment. Act 31 amended subsec. (a) and added subsec. (h).

1983 Amendment. Act 32 amended and relettered former subsec. (b) to subsec. (c), relettered former subsec. (c) to subsec. (d), amended and relettered former subsec. (d) to subsec. (e) and added present subsec. (b) and subsecs. (f) and (g).

References in Text. The act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, referred to in subsec. (g), was repealed by the act of April 17, 1997 (P.L.6, No.3). The subject matter is now contained in Chapter 90 of this title.

The act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, was repealed by the act of July 18, 2007 (P.L.169, No.44).

Cross References. Section 9511 is referred to in sections 9502, 9511.11 of this title.

APPENDIX F – (COUNTY) LIQUID FUELS TAX ACT OF 1931 and Amended by Act 89 of 2013

PENNSYLVANIA CONSOLIDATED STATUTES TITLE 75 (VEHICLE CODE) CHAPTER 90 SECTION 9010

Note: For a complete copy of the Chapter see Title 75.

§ 9010 Disposition and use of tax.

- (a) **Payment to Liquid Fuels Tax Fund.**—One-half cent per gallon of the tax collected under section 9004 (a) (relating to imposition of tax, exemptions and deductions) shall be paid into the Liquid Fuels Tax Fund of the State Treasury. The money paid into that fund is specifically appropriated for the purposes set forth in this chapter.
- (b) **Payment to counties.**—
- (1) The money paid into the Liquid Fuels Tax Fund, except that which is refunded, shall be paid to the respective counties of this Commonwealth on June 1 and December 1 of each year in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years.
 - (2) All money received by the counties under paragraph (1) shall be deposited and maintained in a special fund designated as the County Liquid Fuels Tax Fund. No other money shall be deposited and commingled into the County Liquid Fuels Tax Fund, except in a county which does not have sufficient money in such special fund to provide for payments designated in the current annual budget.
 - (i) Payment from that special fund shall be for the following purposes:
 - (A) Construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide access by individuals with disabilities consistent with Federal and State law.
 - (B) Property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways and bridges.
 - (C) Construction, reconstruction, operation and maintenance of publicly owned ferryboat operations.
 - (D) Interest and principal payments on road, bridge or publicly owned ferryboat operation bonds or sinking fund charges for such bonds becoming due within the current calendar year.

- (E) Acquisition, maintenance, repair and operation of traffic signs and traffic signals.
 - (F) Erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices.
 - (G) Indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects. Expenditures under this clause may not exceed 10% of the yearly allocation to the county.
 - (H) Individual vehicle liability insurance for equipment purchased under the fund. Expenditures under this clause may not exceed 10% of the yearly allocation to the county.
- (ii) The county for the purpose of payments under subparagraph (i) may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year. Loans shall be repaid from the special fund before the expiration of the current calendar year and not thereafter. Money so received and deposited shall be used only for the following purposes:
- (A) Construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide access by individuals with disabilities consistent with Federal and State law.
 - (B) Payment of property damage and compensation of viewers for services in eminent domain proceedings involving roads, highways and bridges occasioned by the relocation or construction of highways and bridges.
 - (C) Construction, reconstruction, operation and maintenance of publicly owned ferryboat operations.
 - (D) Payment of Interest and sinking fund charges on bonds issued or used for highways and bridge purposes and publicly owned ferryboat operations.
 - (E) Acquisition, maintenance, repair and operation of traffic signs and traffic signals.
- (iii) No expenditures from the special fund shall be made by the county commissioners for new construction on roads, bridges, curb ramps or publicly owned ferryboat operations without the approval of the plans for construction by the department.
- (iv) The county commissioners shall not allocate money from the special fund to any political subdivision within the county until the application and the contracts or plans for the proposed expenditures have been made on forms prescribed by the department.

- (v) The county commissioners of each county shall make to the department, by January 15 for the period ending December 31, on a form prescribed by the department a report showing the receipts and expenditures of the money received by the county from the Commonwealth under this section. Copies of the report shall be transmitted to the department and to the Department of the Auditor General for audit.
- (vi) Upon the failure of the county commissioners to file the report or to make any payments, allocations or expenditures in compliance with this section, the department shall withhold further payments to the county out of the Liquid Fuels Tax Fund until the delinquent report is filed, the money is allocated or the expenditures for the prior 12 months are approved by the department.

(c) Allocation of money.—The county commissioners may allocate and apportion money from the County Liquid Fuels Tax Fund to the political subdivisions within the county in the ratio as provided in this subsection. When the unencumbered balance in the County Liquid Fuels Tax Fund is greater than the receipts for the 12 months immediately preceding the date of either of the reports, the county commissioners shall notify the political subdivisions to make application within 90 days for participation in the redistribution of the unencumbered balance. Redistribution shall be effected within 120 days of the date of either of the reports. The county commissioners may distribute the unencumbered balance in excess of 50% of the receipts for the previous 12 months to the political subdivisions making application in the following manner:

- (1) Fifty percent of the money shall be allocated and apportioned among the political subdivisions within the county in the ratio which the total mileage of all roads and streets maintained by each political subdivision making application bears to the total mileage of all the roads and streets maintained by all political subdivisions making application in the county as of January 1 of the year in which an allocation is made.
- (2) The remaining 50% of the money shall be allocated and apportioned among the same political subdivisions on a population basis in the ratio which the population in each political subdivision making an application bears to the total population of all political subdivisions making application.
- (3) In the case of an emergency and upon approval of the Department of Transportation, the county commissioners may enter into contracts and obligations for the expenditure of the estimated liquid fuels tax receipts for a period not exceeding two years and receive a credit for expenditures against subsequent receipts. No county may carryover any credit balance against future fuel tax receipts from year to year.

(d) Copies of laws.—The Department of Transportation shall annually issue to the county commissioners and to the corporate authorities of the political subdivisions in the counties copies of the laws with special reference to pertinent provisions and regulations relating to the receipts and expenditures of any funds authorized to be apportioned, allocated or expended.

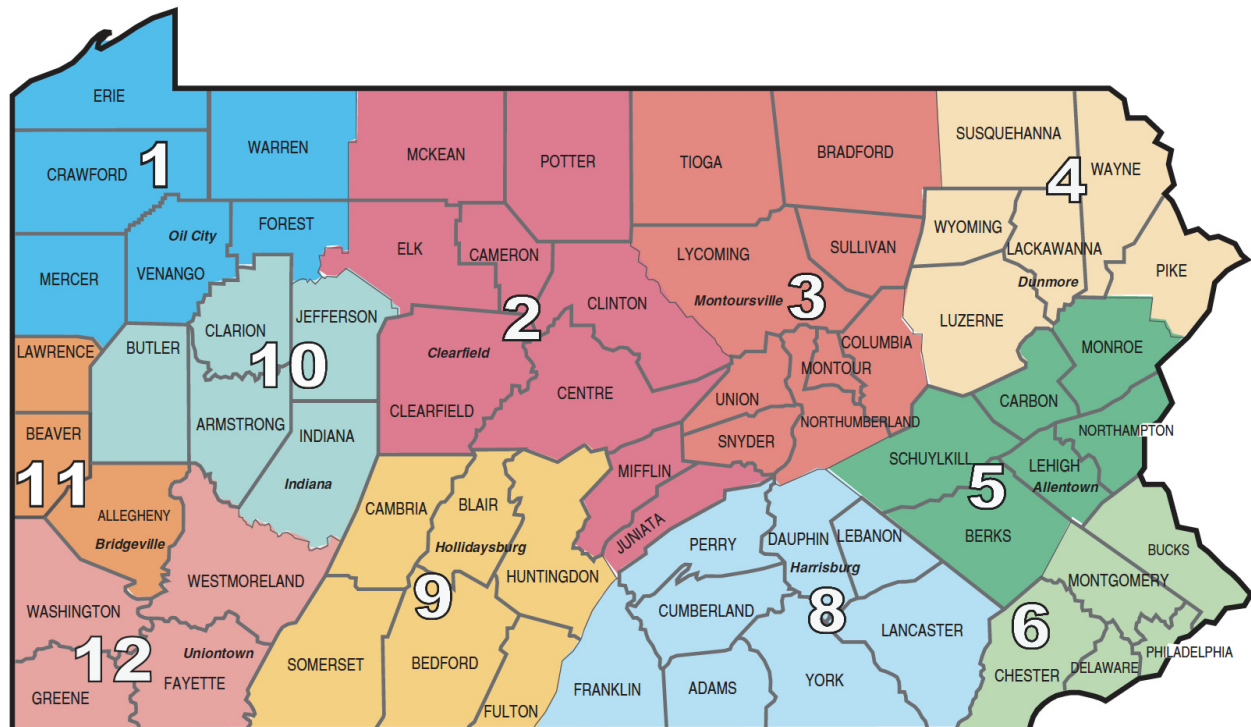
(e) Appropriation.—

- (1) Notwithstanding the provisions of this subsection and notwithstanding the provisions of section 3 of the act of June 1, 1956 (1955 P.L. 1944, No. 655) referred to as the Liquid Fuels Tax Municipal Allocation Law, the entire revenues from 1¢ of the tax imposed by this chapter are hereby appropriated to the Department of Transportation.
- (2) The following apply insofar as consistent with section 9102 (relating to distribution of State highway maintenance funds):
 - (i) Except as provided in subparagraph (ii), the department shall use the revenues appropriated to it under this subsection for the maintenance and resurfacing of secondary roads.
 - (ii) The revenues shall be apportioned by the department for expenditure in the several counties of this Commonwealth in the ratio that the total mileage of State highways in any county bears to the total mileage of State highways in this Commonwealth.
- (3) The remaining tax collected under section 9004(a), the tax of 1½ ¢ a gallon imposed and assessed on liquid fuels used or sold and delivered for use as a fuel in propeller-driven aircraft or aircraft engines, the tax of 1½ ¢ a gallon on liquid fuels used or sold and delivered for use as a fuel in jet or turbojet-propelled aircraft or aircraft engines in lieu of other taxes, all penalties and interests and all interest earned on deposits of the Liquid Fuels Tax Fund shall be paid into the Motor License Fund. This money is specifically appropriated for the same purposes for which the money in the Motor License Fund is appropriated by law.

APPENDIX G -- MUNICIPAL SERVICES DISTRICT OFFICES

DISTRICT	ADDRESS	TELEPHONE
1-0	255 Elm Street Oil City, Pa. 16301 Counties: Crawford, Erie, Forest, Mercer, Venango, Warren	(814) 678-7042
2-0	1924-30 Daisy Street P.O. Box 342 Clearfield, Pa. 16830-0342 Counties: Cameron, Centre, Clearfield, Clinton, Elk, Juniata, McKean, Mifflin, Potter	(814) 765-0408
3-0	715 Jordan Avenue P.O. Box 218 Montoursville, Pa. 17754-0218 Counties: Bradford, Columbia, Lycoming, Montour, Northumberland, Snyder, Sullivan, Tioga, Union	(570) 368-4239
4-0	55 Keystone Industrial Park Dunmore, Pa. 18512 Counties: Lackawanna, Luzerne, Pike, Susquehanna, Wayne, Wyoming	(570) 963-4117
5-0	1002 Hamilton Street Allentown, Pa. 18101-1013 Counties: Berks, Carbon, Lehigh, Monroe, Northampton, Schuylkill	(610) 871-4151
6-0	7000 Geerdes Blvd King of Prussia, Pa. 19406-1525 Counties: Bucks, Chester, Delaware, Montgomery, Philadelphia	(610) 205-6541
8-0	2140 Herr Street Harrisburg, Pa. 17103-1699 Counties: Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry, York	(717) 787-4839

9-0	1620 North Juniata Street Hollidaysburg, Pa. 16648 Counties: Bedford, Blair, Cambria, Fulton, Huntingdon, Somerset	(814) 696-7221
10-0	2550 Oakland Avenue Indiana, Pa. 15701-0429 Counties: Armstrong, Butler, Clarion, Indiana, Jefferson	(724) 357-7986
11-0	45 Thomas Run Road Bridgeville, Pa. 15017 Counties: Allegheny, Beaver, Lawrence	(412) 429-4809
12-0	825 North Gallatin Avenue Uniontown, Pa. 15401-2105 Counties: Fayette, Greene, Washington, Westmoreland	(724) 439-7270



APPENDIX H -- NEW MILEAGE ADDITIONS AND MUNICIPAL BOUNDARY CHANGES

TOWNSHIPS OF THE FIRST CLASS

1. A copy of the ordinance, resolution or other official action showing that the municipality has adopted the street as a public highway, and a copy of a map showing the street location. (A Deed of Dedication must be on file with the municipality.)
2. In townships of the first class, the street must have a minimum right-of-way of at least 33 feet, with the exception of built-up areas where the right-of-way can be reduced to 24 feet.
3. The street must have a minimum cartway of 16 feet, paved or unpaved.
4. The street must be capable of being driven safely at 15 miles per hour.
5. A dead-end street must be at least 250 feet in length measured from the last intersection and provided with a cul-de-sac having a minimum radius of 40 feet.
6. The street must be accessible from an existing public street or roadway.

NOTE: In following these guidelines and submitting the necessary documents to the District Municipal Services Office before September 1 of each year, PennDOT will be able to process added mileages quickly.

TOWNSHIPS OF THE SECOND CLASS

1. A copy of the ordinance or resolution passed by the township to adopt the road as a public highway, and a copy of the plot plan showing the road location. (A Deed of Dedication must be on file with the municipality).
2. Proof that the ordinance or resolution has been recorded in the county courthouse (Clerk of Courts or appropriate county recording office) showing the court seal, page, and document number where recorded.
3. The road must have a minimum right-of-way of 33 feet.
4. The road must have a minimum cartway of 16 feet, paved or unpaved. (Necessary shoulder widths are excluded).
5. The road must be capable of being driven safely at 15 miles per hour.
6. All dead-end roads must be at least 250 feet in length measured from the last intersection and be provided with a cul-de-sac having a radius of at least 40 feet.
7. The roadway must be accessible from an existing public street or roadway.

NOTE: In following these guidelines and submitting the necessary documents to the District Municipal Services Office before September 1 of each year, PennDOT will be able to process added mileages quickly.

CITIES, BOROUGHS AND TOWNS

1. A copy of the ordinance showing that the municipality has adopted the street as a public highway, and a copy of the borough or city map showing the street location. (A Deed of Dedication must be on file with the municipality.)
2. A copy of the ordinance must be on file in the municipality's ordinance book.
3. The street must have a minimum right-of-way of at least 16 feet.
4. The street must have a minimum cartway of at least 16 feet, paved or unpaved.
5. The street must be capable of being driven safely at 15 miles per hour.
6. A dead-end street must be at least 250 feet in length measured from the last intersection and provided with a cul-de-sac having a radius of at least 40 feet.
7. The street must be accessible from an existing public street or roadway.

NOTE: In following these guidelines and submitting the necessary documents to the Municipal Services District Office before September 1 of each year, PennDOT will be able to process added mileages quickly.

B. MUNICIPAL BOUNDARY CHANGES

The Department of Transportation will recognize only the following types of changes:

1. that are the result of municipal consolidation;
2. that are the result of compliance with the procedures outlined in the applicable municipal codes (i.e., Second Class Township Code, Borough Code, etc.); or
3. established by court order.

PennDOT will continue verification of boundary lines as technology advances and allows boundary changes. Agreements, between municipalities will not be recognized by the Department.

APPENDIX I -- TURNBACK PROGRAM

The Turnback Program is a cooperative and voluntary venture between the Pennsylvania Department of Transportation (PennDOT) and municipal governments.

The objective of the Turnback Program is to transfer the ownership of state-owned roads that are better suited to local traffic purposes.

Roads that are candidates for transfer are those that are functionally local, have low average daily traffic, or would benefit the municipality both socially and economically.

PennDOT either rehabilitates the roadway before the transfer takes place or provides the participating municipality funding to rehabilitate the roadway to improve its quality and service life.

Before a roadway can be officially transferred to a municipality, local officials must adopt a resolution authorizing the acceptance of a highway transfer and must enter into a highway transfer agreement with PennDOT.

Municipalities receive an annual payment in perpetuity for the maintenance of the roadway. Act 70 of 2006 authorized an increase in the annual maintenance payment rate for all Turnback projects from \$2,500 per mile to \$4,000 per mile of roadway – the first rate increase in the history of the program. The payments are released on March 1 beginning two years after the year of transfer. For example, if a Highway Transfer Agreement is completed between January 1, 2014 and December 31, 2014, the first annual maintenance payment will be released on March 1, 2016.

PennDOT Publication 310, Policy & Procedures For The Administration Of The Transfer Of State Highway Program (Road Turnback Program), establishes the policy and procedural guidelines for the transfer of functionally-local state highways to municipalities. Please consult the publication for additional details concerning the Turnback Program. For more information on the Turnback Program contact the local District Turnback Coordinator.

If you are interested in the Turnback of a roadway or bridge in your municipality, contact your local District Turnback Coordinator.

APPENDIX J – Section 193.1 The Public Works Contractors' Bond Law of 1967

TITLE 8. BONDS AND RECOGNIZANCES CHAPTER 13. PUBLIC WORKS CONTRACTORS' BONDS

8 P.S. § 193.1 (2008)

NOTICE: This section repealed in part by § 6(b) of Act 1998-57, insofar as it related to Commonwealth agencies.

This section is repealed in part by § 3 of Act 2004-1, approved January 12, 2004, effective immediately. See 35 P.S. 1711.

§ 193.1. Financial security required; sureties; filing

- (a) Before any contract exceeding ten thousand dollars (\$ 10,000) for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including highway work, of any contracting body is awarded to any prime contractor, such contractor shall furnish to the contracting body the following financial security, which shall become binding upon the awarding of said contract to such contractor:
 - (1) Any financial security, acceptable to and approved by the contracting body, including, but not limited to, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions, equal to one hundred percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. Such financial security shall be solely for the protection of the contracting body which awarded the contract.
 - (2) Any financial security, acceptable to and approved by the contracting body, including, but not limited to, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions, equal to one hundred percent of the contract amount. Such financial security shall be solely for the protection of claimants supplying labor or materials to the prime contractor to whom the contract was awarded, or to any of his subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.
- (b) Any bond or other financial security under the provisions of this act shall be executed by one or more surety companies or Federal or Commonwealth chartered lending institutions, chosen by the party posting the financial security and acceptable to the contracting body, legally authorized to do business in the Commonwealth of Pennsylvania.

- (c) A duplicate copy of each financial security, including bonds, shall be filed in the office of the contracting body which awarded the contract for which such bonds or financial security were given.
- (d) For purposes of this section, the phrase "contracting body" shall mean any county, school district, intermediate unit, area vocational-technical school, city, borough, incorporated town, township, home-rule municipality and any authority formed under the act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipality Authorities Act of 1945."
- (e) For the contracting body as defined in subsection (d), the provisions of this section supersede the provisions of section 3 of this act.
- (f) In the case of contracts of ten thousand dollars (\$ 10,000) or less, nothing in this section shall be construed as preventing a contracting body, prior to awarding a contract for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including highway work, from requiring a prime contractor to furnish financial security in accordance with subsection (a).

HISTORY: Act 1990-171 (S.B. 733), § 1, approved Dec. 17, 1990, eff. in 60 days; Act 2000-131 (H.B. 1164), § 1, approved Dec. 20, 2000, eff. in 60 days.