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PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

July 29, 2002

Mr. John R. McGinley, Jr., Chairman
 Independent Regulatory Review Commission
 333 Market Street, 14th Floor
 Harrisburg, PA 17101

Dear Mr. McGinley:

We are writing to you concerning the final rulemaking pertaining to Chapter 449, Liquid Fuels Tax Funds. The amended regulations will update and revise existing provisions of Chapter 449 in order bring the regulations into compliance with statutory requirements passed in 1990. We have reviewed the proposed final regulations and have the following comments.

Section 449.7 (d) is amended to require that the "estimates for materials between \$4,000 and \$10,000 have three telephone price quotes". This change would put the regulation in conformity with the statute. Our concern is the requirement that if three quotations are not available due to the fact that fewer than three qualified contractors service the market area, "...a memorandum *shall be kept on file showing...*" the inability to comply. It does not state how long this memorandum must be kept and it implies that it is a permanent document, which it is not. We suggest the language be changed to state "...a memorandum shall be kept on file until audited showing that fewer...."

Section 449.7 (e) proposes to allow municipalities to "piggyback" purchases not only from the Department of General Services but also "intergovernmental agencies." Although we can agree with the intent of the provision, we have concerns with the wording. As written, it implies that intergovernmental agencies would be able to acquire materials and services without compliance with following the requirements of the 1990 acts. We suggest the section be rewritten to read:

(e) Purchases through Department of General Services or intergovernmental agencies. Advertising, bidding and bonding requirements shall not apply to "piggyback" purchases from suppliers under contracts with the Department of General Services [or intergovernmental agencies]. Intergovernmental agencies that comply with the advertising, bidding and bonding requirements shall relieve a municipality cooperating in the purchasing agreement from compliance with the advertising, bidding and bonding requirements.

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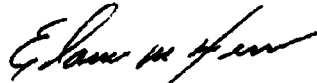
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We have spoken to the Department of Transportation and voiced our concern with the regulations. Our suggestion is that the Department of Transportation withdraw the proposal and make the necessary corrections. Should the Department prefer not to withdraw the regulations, we ask the Commission to disapprove the regulations.

Once again, we appreciate the time and effort your Commission takes to solicit our comments on matters of concern to our members. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Elam M. Herr", written in a cursive style.

Elam M. Herr
Assistant Executive Director

cc: Mr. Richard G. Zerbe
Ms. Sherri B. Zimmerman



ORIGINAL: 2280

PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

August 7, 2002

Mr. Richard G. Zerbe, Chief
Fiscal Division
Bureau of Municipal Services
Pennsylvania Department of Transportation
400 North Street, 6th Floor West
Harrisburg, PA 17120-0064

Dear Mr. Zerbe:

We have received the proposed changes to the regulations for Chapter 449, Liquid Fuels Tax Funds. From our perspective, the changes proposed by the Department of Transportation address our concerns.

We appreciated the fact that the department considered our issues and withdrew the proposed regulations from the Independent Regulatory Review Commission's agenda for consideration and approval. We will be notifying the Commission upon resubmittal of the regulation that we have discussed the issues with you and have come to a mutual agreement on the proposed language change.

As always, it has been good working with you for the betterment of local government.

Sincerely,

Elam M. Herr
Assistant Executive Director

EMH:ls

cc. Mr. John R. McGinley, Jr. ✓
Ms. Sherri B. Zimmerman