

MANAGEMENT DIRECTIVE

Commonwealth of Pennsylvania
GOVERNOR'S OFFICE

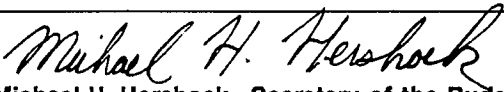
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Number

Subject:

Use of the Determination of Tax-Exempt Category for Capital Projects Form

By Direction of:


Michael H. Hershock, Secretary of the Budget

Date:

September 12, 1991

To comply with the Federal Tax Reform Act of 1986, as amended, all agencies are required to prepare and submit a Determination form when using tax-exempt general obligation bond proceeds for public improvement projects.

1. **PURPOSE.** To provide direction for the completion and processing of the *Determination of Tax-Exempt Category for Capital Projects* form, hereinafter referred to as "Determination" form (Enclosure 1).

2. **SCOPE.** Applies to all Commonwealth agencies filing requests for project action with the Department of General Services, Office of Public Works.

3. **OBJECTIVE.** To ensure that all agencies comply with the Federal Tax Reform Act of 1986, as amended, by preparing and submitting the Determination form when filing a request for project action.

4. **POLICY.** The Federal Tax Reform Act of 1986, as amended, requires all agencies when using tax-exempt general obligation bond proceeds for public improvement projects of the Commonwealth, to prepare and submit the Determination form when filing a request for project action. The act, as amended, requires that no more than the lesser of \$5,000,000 or five percent of any tax-exempt bond issue be used in any direct or indirect business activity carried on by other than a governmental entity. A private business activity use can arise if a private business conducts its business operations pursuant to a management contract, lease, or other agreement in facilities constructed or renovated using tax-exempt bond funds.

5. RESPONSIBILITIES.

a. The Department of General Services (DGS) is responsible for ensuring that the Determination form is completed and, when appropriate, the *Supplemental Determination Form* (Enclosure 2) is completed. DGS is also responsible for completing the *Project Category Summary* (Enclosure 3) form and transferring the resulting percentages of unrelated and related private use and governmental use project costs to Form GSEA-152 and the Honeywell System PRJPW Project Inquiry Screen.

b. Agencies are responsible for the initial submission of the Determination form. The form is to be submitted, along with a *Project Scope Form* (Form GSPW-2), when filing a request for initiation of project action.

c. The Central Services Comptroller is responsible for ensuring that capital construction project invoices are paid from the appropriate pools of governmental and private use bond funds. All invoices submitted to the Central Services Comptroller shall contain a breakdown of the invoice total by governmental use and related and unrelated private use.

6. DEFINITIONS.

a. Governmental use. Any activity or business conducted by state or local government, public school districts, or other political subdivisions, but not the U.S. Government.

b. Related private use. Any activity or business conducted by other than a governmental entity, which is operationally related to activity carried on by a governmental entity. Such use usually requires close physical proximity of the nongovernmental and governmental facilities. An example is a privately operated cafeteria in a state or local government building or facility.

c. Unrelated private use. Any direct or indirect business activity carried on by an individual or entity other than a governmental unit and unrelated to a governmental activity. The federal government and nonprofit organizations are not governmental units.

7. PROCEDURES.

a. Agencies are to prepare an initial certification of the Determination form and attach it to the *Project Scope Form*. Copies of all forms mentioned in this directive can be obtained from the:

Department of General Services
Office of Public Works
18th and Herr Streets
Telephone: 783-8468

The initial certification should be forwarded, along with the scope form and the request for project action, to the Department of General Services at the address shown above.

b. The Deputy for Public Works, Department of General Services, will forward copies of the certification to the Bureau of Engineering and Architecture. The Bureau of Engineering and Architecture is to review the Determination form. If any questions on page one of the form are answered "Yes," the bureau will complete the appropriate information on the *Supplemental Determination Form* based on estimated square footage of the project.

c. The Bureau of Engineering and Architecture will:

(1) Transfer the necessary dollar figures from the Determination form and the *Supplemental Determination* form to the *Project Category Summary*, (attached to the form) and will calculate the percentages of project costs associated with unrelated and related private use and governmental use.

(2) Enter the percentages in the applicable spaces on the GSEA-152, *Design Completion Form*, and will also transmit such percentages to the Administrative/Data Processing Division, Bureau of Contract and Support Services. The Administrative/Data Processing Division will enter the percentage information on the Honeywell System, PRJPW Inquiry Screen. The Public Works Fiscal Unit will forward the percentage information to the Treasury Department and the comptroller, along with invoices for payment.

(3) Complete a recertification of the *Supplemental Determination Form* upon approval of the final project design by the Office of Public Works. Using actual design specifications, all items on the *Supplemental Determination Form* requiring square footage information or project cost information will be updated. If the percentages of project costs associated with unrelated and related private use and governmental use have changed since the initial form completion, based on the actual project design, the Administrative/Data Processing Division will be responsible for updating Form GSEA-152 and the Honeywell PRJPW Inquiry Screen.

Copies of the completed Determination form, the *Supplemental Determination Form*, and the *Project Category Summary* form will be kept on file with the Bureau of Engineering and Architecture.

3 Enclosures:

- 1 - Determination of Tax-Exempt Category for Capital Projects Form
- 2 - Supplemental Determination Form
- 3 - Project Category Summary Form