

MUNICIPAL NEWSLETTER

Cutting Edge Knowledge

Summer, 2007

Purchases over \$10,000 – 2nd Class Townships

by Jennifer McHugh, CPA

Article 31 “Contracts” of the 2nd Class Township Code requires that certain specific procedures are followed when making purchases in excess of \$10,000.

This section of the Code sets out guidelines for the bidding process; such as when bids are to be advertised, what should be included in the advertisement, and which purchases may be excluded from these requirements.

The top three most common errors made when making purchases in excess of \$10,000 are:

1. Inadequate advertisement of bids

(1) Bids should be advertised in one newspaper **two** times, in intervals of at least three days apart and the:

- first time = > 45 days before the opening of bids
- second time = < 10 days before the opening of bids

(2) Advertisements should give a full description of the bid specifications or explain where the specifications can be obtained

(3) Advertisements should state the amount of the performance bond required

(4) Advertisements should give the date, time, and place of meeting that bids will be opened and read

2. Purchases exceeding \$10,000 are never put out to bid

According to the 2nd Class Township Code, the only types of purchases made involving payments in excess of \$10,000, which do not require advertising, bidding or price quotations are as follows:

(1) Emergency or routine maintenance, repairs or replacements for water, electric light and other public works of the township if they do not constitute new

additions, extensions or enlargements of existing facilities and equipment.

(2) Improvements, repairs or maintenance of any kind made or provided by any township through its own employees.

(3) Policies of insurance or surety company bonds, those made for public utility service, those made for electricity, natural gas or telecommunications service either directly or with an association authorized under article XIV in which the township is a member and those made with another municipal corporation, county, school district or municipality authority or Federal or State Government, including the sale, leasing or loan of any supplies or materials by the Federal or State Government or their agencies.

(4) Personal or professional services.

(5) Those made for materials and supplies or equipment rental under emergency conditions under 35 Pa.C.S. Pt. V (relating to emergency management services).

(6) Those contracts involving equipment rental with operators if more than fifty percent of the total labor personnel hours required for the completion of the contract is supplied by the township through its own employees.

(7) Those contracts for the purchase of repair parts or materials for use in existing township equipment or facilities if the item or material to be purchased is the sole item of its kind on the market or is manufactured as a replacement for the original item or equipment being repaired.

continued on page 2

For more information on any of the articles contained in this newsletter, contact us at 215-343-2727, or visit our website at www.bbco-cpa.com.

Bee, Bergvall & Co. is an Accounting and Business Services firm. Since our inception more than 25 years ago, Bee, Bergvall & Co. has developed a unique expertise with regard to municipalities and small government.

BEE, BERGVALL & CO
Certified Public Accountants
936 Easton Rd, Box 754
Warrington, PA 18976
215-343-2727
215-343-8080-fax

Accountable Employee Reimbursement Plans

The Internal Revenue Service (IRS) recently ruled against an employer, making what he considered an accountable reimbursement plan into a nonaccountable plan due to “abuse of the plan”, as reported by the IRS.

Under IRC sections 62(a)(2) and 62(c), reimbursements for travel (including amounts allowable under established per diem rates) that meet established tests for an accountable plan, are not subject to employment taxes (federal income tax withholding, social security and Medicare).

The following are the 3 requirements for an accountable plan:

1. There must be a business connection and the expense must be reasonable.
2. There must be reasonable accounting for the expenses.
3. All excess reimbursements must be repaid in a reasonable time.

For Test #2, amounts paid up to the allowable federal per diem rates for meals, expenses for incidental expenses and lodging are deemed substantiated, without the usual requirements for keeping records of the expenses with receipts.

The Regulations provide that, in addition to these three tests, the plan cannot exhibit a “pattern of abuse.” Regulation 1.62-2(k) states that:

If a payer’s reimbursement or other expense allowance arrangement evidences a pattern of abuse of the rules of section 62(c) and this section, all payments made under the arrangement will be treated as made under a nonaccountable plan.

In the “abuse” case addressed in the IRS revenue ruling, the employer reimbursed truck drivers for meals and incidental expenses incurred on days when they were traveling away from home. The number of travel days was estimated, and paid at a special annually-published daily rate allowable for the transportation industry. Advances were paid based on the expected number of days in out-of-town travel each month.

However, it was determined that the system provided no way to track whether the drivers were actually out-of-town on all the days indicated. It was determined that the employer routinely failed to track the excess allowances and to treat them as wages. Therefore, even though the tests for business connection, substantiation, and repayment were met, the plan fails to meet the requirements of an accountable plan.

As a result of the determination that this was not an accountable plan, all reimbursements (not just the amounts in excess

of the allowable per diem) were determined to be wages subject to employment tax withholding. The failure to implement and use a mechanism or process to track the excess allowances and to treat any excess allowances as wages subject to employment tax evidences a pattern of abuse under the regulations.

An employer who reimburses employees for travel expenses should be aware of the accountable plan rules and tracking requirements, and understand that amounts paid under nonaccountable plans will be deemed to be wages, includible on Form W-2 and subject to income tax withholding, social security and Medicare taxes. In this case the employer would be liable for penalties and interest on taxes assessed for prior periods. If the anti-abuse requirements are not met, an otherwise accountable plan may be deemed nonaccountable and all reimbursements could be deemed wages subject to tax.

For more information on the accountable plan rules, see Publication 15, Employer’s Tax Guide (Circular E).

Bid Process:

continued from page 1

(8) Those for used equipment, articles, apparatus, appliances, vehicles or parts thereof purchased from a public utility.

(9) Those where particular types, models or pieces of equipment, articles, apparatus, appliances, vehicles or parts thereof which are patented and manufactured products.

3. Award of the bid is not publicly announced

According to the Pennsylvania 2nd Class Township Code, the award of bids should be made by public announcement at the meeting at which bids are opened by the board of supervisors, or received from the individual or committee appointed by the board of supervisors to open and read bids, or at a subsequent meeting of the board of supervisors, the time and place of which shall be publicly announced when bids are received.

If for any reason one or both of the meetings are not held, the same business may be transacted at a subsequent meeting if at least five days’ notice of the meeting is published in the same newspaper as the notice of bids.

Bidders shall be notified and other interested parties, upon request, shall be notified of the date, time and location of the opening of bids and may be present when the bids are opened.

For more specific guidance over purchases please read Article 31 “Contracts”, 2nd Class Township Code, in its entirety.

GOVERNOR RENDELL AWARDS \$1 MILLION TO ACQUIRE PORTION OF ERDENHEIM FARM IN MONTGOMERY COUNTY

Governor Edward G. Rendell today said the state will invest \$1 million to help preserve close to 100 acres of dwindling open space in Montgomery County, Pennsylvania's third-most populated.

The money will help Natural Lands Trust and the Whitemarsh Foundation buy the 97-acre Angus Tract at the Erdenheim Farm in Whitemarsh Township. The Angus Tract is bordered by Thomas and Flouertown roads.

"The Erdenheim Farm is one of the few remaining, large, unfragmented, open space landscapes in the heavily developed eastern part of Montgomery County," Governor Rendell said. "We are making this investment because of its unusual importance as a scenic agricultural landmark and a symbol of our landscape heritage."

The Community Conservation Partnerships Program grants administered through the Department of Conservation and Natural Resources will be used to leverage local dollars to acquire the Angus Tract portion of the 450-acre farm, which contains impressive views over gently rolling pastures and will provide for public trails that connect to nearby trail networks, including the Wissahickon Green Ribbon Trail.

Funding for the grant comes from the Keystone Fund, a DCNR account generated from a portion of the realty transfer tax.

"The Erdenheim Farm is an important part of a greenway that stretches from Fairmount Park in Philadelphia to Fort Washington State Park," DCNR Secretary Michael DiBerardinis said during an event at the farm today. "We know that the natural, cultural and recreational attributes of a community contribute significantly to sustainability and residents' quality of life. This farm is an exceptional open space asset to the surrounding community and the region."

"There are many partners on this project and we are happy to be able to help them meet the vision that they have for their community," DiBerardinis said.

"Erdenheim Farm is one of the region's signature landscapes," said Natural Lands Trust President Molly Morrison. "Today, DCNR brings us \$1 million closer to protecting a significant portion of the farm and it joins a remarkable partnership of concerned organizations and public agencies that is committed to preserving this invaluable resource."

"The Whitemarsh Foundation would like to thank the Natural Lands Trust and the state for playing such a critical role in helping us preserve the crown jewel of this area: Erdenheim Farm," said Whitemarsh Foundation

Executive Director Kim Sheppard.

Montgomery County is expected to experience a 14 percent increase in new residents by 2025, according to the Delaware Valley Planning Commission.

For more information about DCNR's grant program, visit www.dcnr.state.pa.us and click on "Recreation and Conservation."

Manager's Corner

Alison Rudolf -- Manager, Lower Moreland Township

GASB, FASB, SAS – is it just me or has municipal accounting and auditing become the 300 pound gorilla in our organizations? Do you long for the days when you hired an auditor, put them in a dark room for a few weeks, they came out, handed you your financial statement, you said thank you and everyone was happy?

Well, we can thank our friends in the private sector for most of the changes we are seeing in recent years, but frankly we have had our own share of scandals in government too. As elected and appointed officials responsible for collecting, spending and overseeing revenues (taxes) that must be paid regardless of whether a citizen receives any service in return – we have a special stewardship responsibility. Establishing uniform standards allows all of us to be judged under the same light and gives our citizens an assurance that the needs of the community are being appropriately managed today and into the future.

There is a controversy beginning to swirl regarding the future of GASB. Some organizations including GFOA feel that after 20 years, GASB has completed the tasks it was created to accomplish and should shift to a less aggressive position in considering accounting issues as they arise. To date none of the other public interest groups (ICMA, NLC, NACO, etc.) have concurred with this opinion, but the issue is heating up on other fronts. The Texas legislature passed a law earlier this year opting out of the GASB rule requiring the disclosure of the cost of retiree health care. The Connecticut legislation is also considering changes and is seeking to give the state comptroller the authority to set the "accounting principles" for the state's financial reports instead of GASB.

The Community Corner

Watch this space!

You may have noticed that the format of our Municipal Newsletter has changed. We have now expanded to a four page format. This will not only save us on printing and mailing costs, it will allow us to introduce a new feature of our newsletter, *The Community Corner*.

The Community Corner will be a place to share information with other municipal managers and finance directors. We will be soliciting and listing job openings as well as noteworthy news such as announcements, awards or grants.

If you have an item that you would like to see printed in *The Community Corner*, please send it to Liz Vibber at lvibber@bbco-cpa.com.

*
**

Elimination of the Amusement Tax

Senate Bill 1012 (PN 1265) would amend the Local tax Enabling Act to eliminate municipalities' ability to charge an amusement tax. Beginning January 1, 2008, municipalities and school districts would be prohibited from levying, assessing, or collecting an amusement or admissions tax on the sale of tickets or the privilege of admission to a fixed site amusement or fixed site water park. www.legis.state.pa.us

Fundations Family of Software

Is your financial software meeting the needs of your municipality?

As municipal auditors ourselves, we are very aware of the needs and expectations of municipal finance officers. We are also aware that often those needs are not met.

Fundations has been created to ease this burden. By bundling the general ledger, revenue, expense, payroll, banking and budgeting modules into one program, Fundations allows you to instantly track entries and changes made through any module.

The responsiveness and support you'll receive from the staff of Fundations makes us an active partner in your municipality

**GASB #34 Compliant
Sewer & Utility Billing Module
MONEY BACK GUARANTEE**

Summer, 2007

Bee, Bergvall & Co.
Certified Public Accountants
936 Easton Rd.
PO Box 754
Warrington, PA 18976