Relation of State Board of Accounts to Public Funds

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Although our primary duties consist of auditing records of all governmental agencies of the state and prescribing and approving of forms and records, it is also my thought that "your duties and authorities" must of necessity be a part of this discussion.

With any imposed duties, there are always problems connected with the performance of those duties. A discussion of your authorities could be nothing further than pointing out and discussing those authorities which are given to you in the acts of the General Assembly of our state; you are limited in your authority to such grants given by the legislature. An officer has no discretion in his official actions except as given by the statutes, and it should be remembered that if the law does not grant him specific authority, then he cannot go beyond these statutory grants. The mere fact that the statutes may not say he cannot do a certain thing, is not authority for doing it.

You are attending the Purdue Road School, because you are interested in learning better ways of properly maintaining and improving our city streets. The Board of Accounts is also interested in this subject, and we are anxious to see that the greatest amount is obtained from each highway dollar.

Highway business in Indiana is big business. Last year the state distributed to cities and towns from the collection of gasoline tax and motor vehicle license fees $18,943,538.43. In addition to this amount, most cities and towns levied a property tax for street purposes. We would like to emphasize this point, because you are not limited to the motor vehicle tax funds since you may also levy, at the local level, additional taxes for street, alley and sewer purposes. The expenditure of funds derived from this source would be controlled by the general budget classification which is now in effect in cities and towns.
We would suggest the motor vehicle highway funds received from the state be carried in what we might term a "special street fund" and not mixed with funds raised at the local level in order that expenditures could be better controlled and confined to the purposes provided by law.

In many units which we audit, no record is available to show an inventory of equipment, materials or supplies; many street commissioners do not concern themselves with the balance in the street fund or the encumbrances outstanding against such a fund, or appropriations made available for spending street funds. We believe the keeping of adequate records is important in order to help you obtain your full dollar's worth. The statute which provides for distribution of motor vehicle highway funds to cities and towns provides that such funds shall be budgeted according to law.

When you find it necessary to purchase materials, supplies or equipment, you should prepare a requisition, including detailed specifications for the various items. In too many cases, the specifications are too indefinite, inaccurate and do not give a bidder sufficient basis upon which he can submit a fair bid. We believe specifications should be so clear there will be no question as to the quality of materials, supplies and equipment being checked back to those specifications.

The statute governing the purchase of supplies, materials and equipment is Chapter 99 of the Acts of 1945 as amended by Chapter 32 of the Acts of 1953, which provides, that in case the purchase does not exceed $1,000, the purchaser is authorized to buy in the open market without the giving of notice or the receiving of bids. We believe that the term "purchaser" means the Board of Public Works in the case of a city. The 1953 amendment, besides changing the amount permissible to be purchased on the open market from $500 to $1,000, added this proviso:

"Provided, further, that all purchases by any governmental unit under the above proviso shall be on a unit basis and purchases of materials and equipment of a value in excess of $1,000 on the open market under two or more contracts is prohibited."

We believe the provision regarding bids being on a unit basis; i.e., ton, yard, gallon, etc., is clear; but you may have some doubt as to the meaning of the last part of the proviso. We believe it was the purpose of the legislature by this enactment to stop certain evasions of the purchasing law whereby orders were split so that no order
was over $500. It should be the purpose of every officer of a city to make purchases for the city at the lowest possible price, quality of course being considered. To buy large quantities of materials or supplies on the open market without receiving bids denies to the taxpayers the right to obtain the fullest return for their tax dollars. It should be your purpose to prepare clear and definite specifications for the items you need to buy, to obtain the best price obtainable, and to be sure the quality and quantity is correct in order that you will pay for what you bought.

When cost of public work or improvement to be constructed or repaired is under $2,000, Chapter 306, Acts 1947, as amended by Chapter 135, Acts 1949 and Chapter 4, Acts 1953 permits such public work to be performed by the city or town workmen and the purchase of materials, supplies or equipment as provided under the provisions of the law governing such purchases. If the cost is estimated to be over $2,000, complete, detailed plans and specifications are required, approved by the Board of Public Works, and placed on file. Bids must be invited by publication of legal notices. The time lapse between the date of publication and the date of receiving bids shall be determined by the Board of Public Works, and in no case shall the lapsed time be more than six weeks.

If the aggregate cost of the work is $5,000 or more, the law requires the use of the experience, equipment and financial questionnaire (Form 96-A).

Form 96 shall be used in submitting bids for public work. Form 86 is the form prescribed for Contractor's Combination Bid Bond and Performance Bond; Form 86-A is the form to be used for Contractor's Bond for construction when the combination bid and performance bond is not used.

We would also call attention to the need of complying with the prevailing wage law (Chapter 319, Acts 1935) when a contract is to be awarded for the construction of any public work. “Public work” is defined in the act to include any public building, highway, street, alley, bridge, sewer, drain, improvement or any other work of any nature or character whatsoever which is paid for out of public funds.”
bidden by statute; and for years, it has been one of the evils we have had to fight. Our advice would be to avoid any possibility of becoming entangled in this kind of transaction.

In summary, we would like to urge you (1) to keep good records, (2) to prepare clear and definite specifications; (3) to check carefully the quantity and quality of materials, supplies and equipment received; (4) to follow strictly the provisions of the laws governing purchases and contracting for public works, and (5) to avoid any possibility of becoming entangled in transactions with the unit you are working for.

MOTOR VEHICLE HIGHWAY FUNDS

In Official Opinion No. 45 of 1959, the Attorney General ruled on the provision in Chapter 278, Acts 1959 (Burns 36-2819) which requires that at least 75 per cent of funds received by a city or town from state motor vehicle highway (gasoline tax) distributions shall be used for construction, reconstruction, repair, widening or grade separation.

Based upon this official opinion and the provisions of Burns 36-2815 et seq., at least 75 per cent of such funds received by a city or town shall be spent for any or all of the following purposes:

1. Construction of streets and alleys (including purchase of equipment used for construction).
2. Reconstruction of streets and alleys.
3. Repair of streets and alleys.
4. Widening of streets and alleys.
5. Separation of grades of street and railroad crossings in first class cities.

The other 25 per cent of such funds may be expended for any or all of the above purposes and any or all of the following purposes:

1. Purchase, erection, operation and maintenance of traffic signs and signals, and safety zones and devices.
2. Traffic policing and traffic safety, not to exceed one-fourth of the total costs of traffic policing and traffic safety paid for by the city or town from all of its funds.
3. Painting of structures, objects and surfaces in streets and alleys for purposes of safety and traffic regulations.
4. Oiling, sprinkling and cleaning of streets and alleys.
5. Purchase, rental and repair of any street or highway equipment.
The term, streets and alleys, includes the roadway, rights-of-way, curbs, bridges, drainage structures, guard rails, drains, culverts and protective structures in connection with streets and alleys.

PARKING METER FUNDS

In towns and second, third, fourth and fifth class cities, parking meter funds shall be distributed for any or all of the following purposes:

1. For the payment of the purchase price, rental fees and cost of installation of such parking mechanical devices.

2. For the payment of the cost of maintenance, operation, repair and all other incidental costs and expenses in the operation of said mechanical parking devices. Included in said incidental costs and expenses shall be the cost of clerk and bookkeeping expenses in the handling and keeping of records of all fees so collected and expended.

3. For the payment of the cost of traffic signal devices used in said cities and also repair and maintenance of any of the public streets and highways where said mechanical parking devices are in use, and all streets connected therewith in said city.

4. For the purpose of acquiring by lease or purchase suitable land for off-street parking purposes, for the improvement and maintenance of such land for parking purposes, and for the purchase, installation, and maintenance of mechanical parking devices on such land.

The December 31 balance in the parking meter fund may be transferred, by ordinance, to the general fund and may then be used for any general fund purpose, including streets, if an appropriation is available. Such transfer may be made at any time based upon the parking meter fund balance on December 31 of the previous year.