

Act 13 Guidance

Act 13 of 2012 establishes a Marcellus Legacy Fund that allocates a portion of the Marcellus Shale Impact Fee to the Highway Bridge Improvement Restricted Account in the Motor License Fund. These funds are annually distributed to counties and are to be used to fund the replacement or repair of county or municipal owned at-risk deteriorated bridges.

An at-risk deteriorated bridge is defined to be a bridge over 8 feet in length that has one or more components rated poor including those that are posted with weight restrictions. Act 13 requires PennDOT to approve a submitted “plan” to repair at-risk deteriorated bridges. The Transportation Improvement Program (TIP) will be the official record for approval of these at-risk bridges. Municipalities and counties should collaborate to identify opportunities to utilize these funds. Each county should subsequently work with their respective Metropolitan or Rural Planning Organization (MPO/RPO) (or the Department in case of an unaffiliated county) to program Act 13 projects on the regional TIP. Projects will be added to the TIP in accordance with the MPO/RPO’s established procedures as documented in the agency’s Memorandum of Understanding (MOU).

Because Act 13 funds are local funding, project development and delivery will follow municipal codes unless the funds are utilized in combination with or as a match to state and/or federal funding. In this case, all state and/or federal regulations and policies must be followed.

Projects that utilize Act 13 funding should in most cases result in removal of the bridge’s designation of poor. In limited circumstances, repairs may be necessary to ensure a bridge remains in operating status until more extensive and permanent repairs can be completed. In these rare situations, repairs must be priority maintenance items found through the National Bridge Inventory (NBI) inspection process and must result in a material structural improvement. In these limited circumstances, the project to make permanent repairs or replacement to fully remove the bridge’s designation as poor should already be on the regional TIP at the time the project to make the priority maintenance repairs to ensure the bridge’s operating status is initiated.

ACT 13

Frequently Asked Questions

- 1. The Act 13 funds are distributed to the counties – can the County just write a check to spend the money?**

No. Act 13 legislation states that projects must be on an approved plan - a Regional Transportation Improvement Program (TIP).

- 2. Will Act 13 funding be handled the same as Liquid Fuels funds in terms of eligibility, environmental clearance and PennDOT oversight of the proposed project.**

No. Act 13 funds must be used exclusively for at risk bridges.

- 3. What is an at-risk deteriorated bridge?**

An at-risk deteriorated bridge has one or more components rated poor and includes those that are posted with weight restrictions.

- 4. Who ultimately has control of these funds?**

Act 13 funds are issued directly to the County; therefore, the County has responsibility of the funds. Counties should seek input from their planning organization to add selected eligible bridge projects to the TIP.

- 5. What is the responsibility and liability of the County for municipal projects through this funding source?**

Act 13 funds are issued directly to the County; therefore, the County has responsibility of the funds. Counties should coordinate with Metropolitan and Rural Planning Organizations (MPO/RPO) to add selected eligible bridge projects to the TIP.

- 6. Counties receive other “slices” of Act 13 funds, if the other flavors of Act 13 funds are utilized towards a bridge project, do they need to be shown on a TIP?**

Yes. It is beneficial to show all participating sources of funding for the project on the regional TIP, provided those funds are being used for an eligible bridge project.

- 7. Is there another “Act 13” pot of money that is to be distributed for other uses (Greenways)?**

Yes. These funds are not under PennDOT’s area of responsibility.

- 8. Will Act 13 funding be available to the Counties on a recurring basis?**

Yes. Funding is anticipated to continue, depending on the formula and oil and gas activities.

- 9. Can these funds be cumulative? What is the timetable as to when these funds need to be spent?**

Yes. Act 13 funds may be carried over from year-to-year.

10. Are Act 13 dollars classified as state or local funds?

Act 13 funds are considered local funds.

11. Can Act 13 funds be used as local match on a TIP project?

Yes. If the project is eligible for Act 13 funds.

12. Many areas receive FEMA disaster funds – can Act 13 dollars be used as match?

No. Act 13 funds may not be used to match disaster funded projects.

13. Will a project number be required from Municipal Services?

No. Unless liquid fuels money is also being used on the project.

14. Must an MS329 project approval form and a MS999 project completion form be completed, submitted, and approved?

No. Unless liquid fuels money is also being used on the project.

15. Will a structural adequacy review be required by PennDOT?

No. Unless liquid fuels money is also being used on the project.

16. Does the advertisement and proposal/contract get reviewed by Municipal Services?

No. Unless liquid fuels money is also being used on the project.

17. Does the county have to provide delivery tickets, certifications, mix designs and calculations to Municipal Services?

No. Counties should follow the regular procedures in your municipal code.

18. Will a field inspection of the project be completed by the Municipal Services Representative?

No. Unless liquid fuels money is also being used on the project.

19. Does PennDOT assume a role in the project other than in establishing the criteria list?

Yes. Depending on what types of funds are used for the bridge project, PennDOT may have input/oversight of the project(s).

20. Does the determination of which projects to be addressed (municipal vs. county) lie with the recipient County?

Yes. As stated in the law “The Department of Transportation shall release money under this paragraph upon approval of a plan submitted by a county or municipality to repair an at risk deteriorated bridge. The plan must include funding for replacement or repair.” Selected projects should be submitted by the county to the applicable Metropolitan or Rural Planning Organization (MPO/RPO), or to PennDOT for an unaffiliated county, in order to be placed on a regional TIP.

21. Can the Act 13 funding be split amongst several projects?

Yes. If the projects are determined to be eligible for Act 13 funds.

22. Is there a process for municipalities to access Act 13 funds through the County? Who makes the selection? Who approves the project (design, bid and construction phases)? What criteria are followed?

Yes. The municipality should work with the County to access the funds. The County and municipality will determine how to use the funds. The municipality will be responsible for the project from start to finish. Municipalities would follow the municipal codes and your solicitor's guidance for bidding and design of the projects.

23. If the County elects to provide the funding to a municipality, what is the oversight requirement of liability of the county to make sure the project meets the above requirements?

It is recommended that Counties follow their municipal code or the direction of the county solicitor.

24. If a project is funded solely with Act 13 funds or a combination of Act 13 and local funds, does that project have to go through the PennDOT/review and approval process through ECMS?

No. It is recommended that Counties follow their municipal code or the direction of the county solicitor.

25. Do Act 13 funds have to follow the same federal/state regulations as other TIP projects or can projects be managed as a 100% local project?

If there are other Federal or State funds programmed on the project, all state/federal regulations must be followed.

26. Does the state or county set the DBE goal for Act 13 projects?

No. When a project is 100% Act 13, follow your municipal code or the direction of your solicitor in your county.

27. Are there requirements for consultant/contractor selection process?

Yes. When a project is 100% Act 13, follow your municipal code or the direction of your solicitor in your county.

28. If a project is funded solely with Act 13 funds, what contract provisions does the Act 13 funding require?

Follow your municipal code or the direction of your solicitor in your county.

29. Do projects need to be let through ECMS?

When a project is funded 100% Act 13, those projects do not have to utilize ECMS.

30. Must a project(s) be included on a TIP for tracking purposes?

Yes. The eligible bridge project(s) must be on a regional TIP.

31. Is there a timetable as to when the funds need to be shown on the TIP?

No. As eligible bridge projects are identified, they should be added to a regional TIP.

32. Will projects be added to the MPO/RPO TIP as an amendment without input?

No. PennDOT would encourage counties and municipalities to work closely with the MPO or RPO when adding Act 13 bridge projects to a regional TIP through an administrative modification.

33. Does each bridge need to be programmed or can you do a maintenance line item?

Yes. Each bridge must be programmed on a regional TIP, either individually or with a group of other bridges.

34. Can the funding be added to a current TIP project that has a combination of federal and state funding?

Yes. The bridge project must be eligible for all of the fund categories.

35. Are these funds eligible for all phases as Act 13?

Yes. Act 13 can be used for all phases of eligible bridge projects. The funds can also be applied as the local match to existing (Act 13 eligible) TIP projects.

36. Can Act 13 funds be used as match with federal/state funds on existing Transportation Improvement Plan (TIP) projects?

Yes. Act 13 monies can be used with existing TIP projects, provided it is an eligible at-risk bridge.

37. If a municipality uses its current allocation to start design and plans to use a future allocation for construction, can we show local construction funding on the TIP and replace the local construction funds with Act 13 construction funds as they become available?

Yes. The funding is distributed on an annual basis; therefore, additional funds may be programmed as they become available.

38. The program already has local funds listed. Do the Act 13 funds just need to be referenced in the text or type of funding column?

No. PennDOT's Multi-modal Planning Management System (MPMS) includes a fund type that reflects the utilization of Act 13 funds.

39. If Act 13 funds are used on a municipal project as the local match who manages the project? Who is responsible for auditing the funds?

The bridge project is managed by the municipalities; therefore, any regulations or requirements for audits of regular municipal funds would apply. However, if a project is using federal or state TIP funding and Act 13 is a source of match, the audit must be based on the most restrictive fund type. Counties should be prepared to comply with all federal and state audit requirements including: the Single Audit Act, as amended, 31 U. S.

C. 7501 et. seq.; Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as amended; and any other applicable law or regulation and any amendment to such other applicable law or regulation which may be enacted or promulgated by the federal government.

40. If Act 13 funding is used in combination with other federal funding, must the design criteria and environmental reviews meet the criteria required by the federal funding source?

Yes. If federal funding is used, all federal requirements must be met to advance the bridge project.

41. Do these funds need to be specifically used on local bridges? And if so, are there conditions on the local bridges that need to be met?

Yes. Act 13 funds must be used on municipal or county owned bridges. Funds are for the repair or replacement of an at-risk bridge (bridges with one or more components rates as poor including those that are posted).

42. Can Act 13 funds be used for preventative maintenance and inspection of locally-owned bridges (esp. those under 20 ft. where “at-risk condition” is unknown)?

No. As required by the legislation, Act 13 funds must be used for the repair and/or replacement of locally owned at- risk, deteriorated bridges.

43. Do selected projects have to address a problem on a municipal or county bridge that has been determined to have one or more components rated poor?

Yes. Poor rated bridges including those that are posted with weight restrictions.

44. Is a structure between 8 and 20 feet considered a bridge?

Yes. If the bridge has one or more components rated as poor or it is posted, it could be considered for Act 13 funds.

45. Under 8-foot bridges may not show up on a listing of poor rated bridges, are they eligible for Act 13 funding?

No.

46. Because a designation of poor often applies to inspected structures over 20 ft., does that limit the use of these funds to only those structures greater than 20 ft. in length?

No. If a structure is under 20 feet in length, has been inspected and determined to be in poor condition or is posted, the bridge could be considered eligible for Act 13 funds. However, the project may not be eligible for federal funding.

47. Does the completed project need to result in the removal of the designation of poor?

Yes, In most cases. The Act 13 legislation directs that funds are designated for the replacement or repair of locally owned at-risk deteriorated bridges. The repairs in most projects should result in removal of the poor designation. In rare instances, repairs may be necessary to ensure a bridge remains in operating status and maintains its structural integrity until a more extensive project can be implemented to remove the poor designation. In this case, repairs must be priority maintenance items found through the NBI inspection process and must result in a material structural improvement and the project for more extensive work to remove the designation of poor should be on the regional TIP.

48. If Act 13 funds are used, who does the reporting to PUC?

As stated in the law: All counties and municipalities receiving funds from the fund under this section shall submit information to the commission on a form prepared by the commission that sets forth the amount and use of the funds received in the prior calendar year. The form shall set forth that the funds received were committed to a specific project or use as authorized in this section. The reports shall be published annually on the county or municipality's publicly accessible Internet website.

49. Who can I contact if I have questions?

Contact your PennDOT [Municipal Services Representative](#)