



**Guidance for Local Road Agency Transfers of Act 51 Street Funds
Pursuant to Act 51, §12 and §13, as amended**

Introduction:

Transfers between the Major and Local Street funds (street funds) are allowed pursuant to the limitations established in Act 51, Section 12 (MCL 247.662) and Section 13 (MCL 247.663). Transfers of street funds to any other fund are NOT allowed.

Legislation:

Article 9, Section 9 of the Constitution of Michigan of 1963 states: “All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and to propel aircraft and on registered motor vehicles and aircraft shall, after the payment of necessary collection expenses, be used exclusively for transportation purposes as set forth in this section.”

Attorney General Opinion #5558 of 1979 states: “The language of the Constitution has established the parameter within which revenues reserved for road programs may be spent as being the planning, administering, construction, reconstruction, financing, and maintaining of state, county, city, and village roads, streets, and bridges and their appurtenances. ... the explicit recitation of six transportation purposes compels the conclusion that the revenue reserved for transportation in the current provisions of Const 1963, Art 9, § 9, shall be used for these purposes and none other.” “... in order to avoid a direct conflict with a constitutional provision, there may not be any transfer, loan, diversion, or appropriation of those funds designated for use in road programs to some other use not contemplated by the Constitution.”

Practice/Procedure:

Revenues deposited into the street funds take on the restricted nature of those funds and subsequently cannot be transferred out.

- Transfers between the Major Street and Local Street funds are allowed per Act 51, Section 13(6), however, transfers-out of the Major Street or Local Street funds to any other fund are not allowed.
- Revenues/appropriations may be transferred/deposited from other unrestricted funds. These amounts may not be transferred back after the close of the fiscal year if not expended in that year. For example: Appropriations from the General Fund may be transferred into the Major and Local Street funds in any amount, but cannot be transferred back to the General Fund once the fiscal year ends.

- Act 51 Eligible Street fund expenditures must be recorded in the street funds.
- MTF funds that are distributed to County Road Commissions or County Road Departments through the County Treasurer are also restricted to transportation use and cannot be transferred to other funds. Transfers from Primary or Local Road funds to any other accounts are not allowed. Any funds that are transferred into Road fund accounts take on the restricted nature of these funds.

Contact Person

Questions related to municipal transfers should be directed to:

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Frequently Asked Questions for Local Road Agency Transfers of Act 51 Street Funds

- 1. My agency has a debt service fund and Street Funds are transferred annually to the debt service fund for the transportation portion of the cost. Is this OK in light of the document?**

Local Road Agencies are permitted to issue debt for road purposes as indicated in the Attorney General Opinion 5558. This is not a transfer of funds but instead a repayment of debt. Street funds can be used for the repayment of debt as long as the debt was issued for transportation purposes. In the Act 51 Report, the repayment of debt should be recorded in the Schedule of Long Term Debt and shown as an expenditure on the principal and interest expenditure lines. For GAAP accounting, CPA's must show this as a transfer on your audited financial statements.

- 2. My Local Road Agency has a State Infrastructure Bank (SIB) Loan from MDOT that must be repaid. How should this be reported and is this a violation of the guidance?**

A SIB Loan would be reported on line 47 – Other on the Other Financing Sources (Uses) page of the Act 51 report for cities/villages. The entire amount of the loan would be reported in the year the loan contract is signed and funds are disbursed. The repayment of the loan would be treated as debt and reported on the Schedule of Long Term Debt as a loan and on lines 37 – Principal and line 38 – Interest and Bank Fees until the loan has been repaid.

- 3. My municipality passed a special assessment/tax levy for a project and created a special fund for this revenue stream. My municipality wants to take the major and local street funds and move them into this special fund for the project. Is this allowed based on the guidance issued for Local Road Agency Transfers of Act 51 Street Funds?**

No. This is not allowable based on the guidance issued by MDOT. This special revenue would need to be transferred into the street funds and expended from the street funds to properly account for all transportation activities.

- 4. Why am I allowed to transfer General Fund dollars into or out of the Major or Local Street funds throughout a fiscal year, but not allowed to transfer out after the close of the fiscal year?**

Once funds from any source are transferred or deposited to the Major or Local Street Funds they take on the restricted nature of those funds and cannot be transferred out. However, we acknowledge that an agency may have a temporary or emergency need within the year, for example for cash flow or other operational purposes. An accounting entry to show movement of General Fund (or other fund) dollars into the Major or Local Street Funds to resolve this temporary situation must be reversed in that same fiscal year.

If those transferred funds remain in the Major or Local accounts at year end, we view this as a permanent increase to the restricted fund(s). We would expect to see the General Fund recorded as revenue on the annual Street Financial Report as an Other Financing Source.

We allow M/L funds to borrow from other agency funds, but we do not allow other agency funds to borrow from M/L.