

ERIE COUNTY WATER AUTHORITY
 AUTHORIZATION FORM
 For Approval/Execution of Documents
 (check which apply)

Contract: _____ **Project No.:** _____
Project Description: Policy No. 9 – Use of Authority Vehicles

Item Description:

Agreement Professional Service Contract Amendment Change Order
 BCD NYSDOT Agreement Contract Documents Addendum
 Recommendation for Award of Contract Recommendation to Reject Bids
 Request for Proposals
 Other Policy Revision

Action Requested:

Board Authorization to Execute Legal Approval
 Board Authorization to Award Execution by the Chairman
 Board Authorization to Advertise for Bids Execution by the Secretary to the Authority
 Board Authorization to Solicit Request for Proposals
 Other Approve Revised Policy

Approvals Needed:

APPROVED AS TO CONTENT:

Other (if Applicable) _____ Date: _____
 Chief Operating Officer Russell Stott _____ Date: 4/22/2020
 Executive Engineer _____ Date: _____
 Director of Administration _____ Date: _____
 Risk Manager _____ Date: _____
 Chief Financial Officer Karen A. Bendugast _____ Date: 04/22/2020
 Legal Margaret A. Murphy _____ Date: 04/22/2020
APPROVED FOR BOARD RESOLUTION:
 Secretary to the Authority [Signature] _____ Date: 04/22/2020

Remarks: _____

Resolution Date: _____ **Item No:** _____



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

April 21, 2020

To: Commissioners Schad, and Carney

From: Karen A. Prendergast, Chief Financial Officer

Subject: Policy No. 9 – Use of Authority Vehicles

The Authority's Policy No. 9, outlines the circumstances under which an individual is assigned an Authority owned vehicle for personal use. The policy includes procedures for required record keeping and year end reporting as well as tax implications of personal use of a vehicle.

Due to expansion in the Engineering Department as well as changes in job titles and responsibilities, it is necessary to update the policy to reflect the current use of Authority vehicles.

Please review the attached policy and consider adoption at the meeting of April 30, 2020.

cc T. McCracken
M. Murphy
S. Stoll

**ERIE COUNTY WATER AUTHORITY
HR Policies/Procedures**

Re:	USE OF AUTHORITY VEHICLES	Policy No.:	9.0
<hr/>			
Application:	Employees Using Authority Vehicles	Amended:	01/22/98 01/10/08 06/18/09 02/20/14 04/14/16 04/30/20

POLICY

The Erie County Water Authority (the “Authority”) owns a fleet of work vehicles used by Authority personnel. Individuals holding certain titles within the Authority are permitted to take these work vehicles home for various work-related reasons, depending upon the employee’s title. When an employee uses a work vehicle for “personal use,” the value of the “personal use” is considered a taxable fringe benefit subject to FICA and federal and state income taxes.

The Authority has adopted this policy to set forth clear and comprehensive guidelines applicable to employees, using work vehicles for personal use, and whose personal use is subject to applicable rules and regulations promulgated by the Internal Revenue Service.

PROCEDURE

Section 1 Definitions

- (a) “**24-Hour Access Vehicle**” means a **work vehicle** assigned to an employee who has 24-hour access to the vehicle for business and personal use.

- (b) “**Annual lease value**” means the value assigned by the **IRS** based on the **FMV** of a work vehicle.

- (c) “**Annual statement of business travel**” means the annual statement given to the **Authority’s** Comptroller in the month of December, indicating the total mileage placed on a **work vehicle** and the mileage, or percentage of total mileage used, for business or trade.

- (d) “**Assigned Work Vehicle**” means, for purpose of this policy, a **work vehicle** assigned to an employee for business use and for limited **personal use** to commute to and from work.

- (e) “**Authority**” means the Erie County Water Authority.

(f) “**Business log**” means the log kept by an employee who may use a **work vehicle** 24-hours a day for both personal and business travel. For tax purposes, such an employee is required to maintain a business log containing the business mileage, time and place for business travel, and the business purpose for such travel.

(g) “**Calculated fringe benefits**” means the fringe benefit allocated for **personal use** using either the **Commuting Rule** or the **Lease Value Rule** and for the fuel used for **personal use**.

(h) “**Chief Operating Officer**” means the individual whose position is defined under the job specifications for Executive Director.

(i) “**Commuting Rule**” means the **IRS** rule for calculating **personal use** for commuting to or from home, using a **work vehicle**. Under the **Commuting Rule**, the **IRS** has established a published, flat rate for a **one-way commute**.

(j) “**FICA**” means payroll withholdings for social security and Medicare.

(k) “**FMV**” means fair market value.

(l) “**Fuel value**” means the value of fuel provided by the **Authority** for a **work vehicle**, including fuel pumped at the Union Road Service Center or fuel billed or invoiced to the **Authority**. Fuel assessed for personal use is a taxable fringe benefit under **IRS** rules.

(m) “**IRS**” means the Internal Revenue Service within the United States Department of the Treasury.

(n) “**Lease Value Rule**” means the **IRS** rule for calculating **personal use** by an employee who has 24-hour access to a **work vehicle**.

(o) “**One-way commute**” means commuting one-way, either to, or from work. During a **one-way commute**, an employee is permitted to use an **Assigned Work Vehicle** on a de minimis basis for personal errand while traveling en route to work or from home.

(p) “**Personal use**” means use of a **work vehicle** for purposes unrelated to work including, but not limited to, commuting to or from work.

(q) “**Work vehicle**” means a vehicle owned by the **Authority** and used by **Authority** personnel for business purposes. The term “work vehicle,” as used in this policy, has the same meaning as the term “employer-provided vehicle,” as used by the **IRS**.

(r) “**Working Condition Benefit Rule**” means the **IRS** rule that permits a taxpayer to deduct allowable business expenses when the taxpayer’s use of an employee-provided vehicle is considered taxable income.

Section 2 24-Hour Access Vehicle

(a) The *Authority* provides *24-Hour Access Vehicle* to essential personnel who incur extensive business mileage or who are routinely required to respond to emergencies on a 24-hour basis.

(b) The *Authority* shall assign a *work vehicle* on a twenty-four (24) basis to an essential employee having one of the following titles: *Chief Operating Officer*, Executive Engineer, Sr. Production Engineer, Sr. Distribution Engineer and Director of Operations.

(c) Employee having one of the titles set forth in paragraph (b) of this section is not required to accept a *24-Hour Access Vehicle*. Subject to the provisions of Policy No. 8 Travel and Training Expenses, such an employee may seek mileage reimbursement for using a personal vehicle for business usage.

(d) Employees assigned to a *24-Hour Access Vehicle* may use such vehicle for *personal use* subject to the limitation set forth in paragraphs (e) through (g) of this section.

(e) Employees assigned to a *24-Hour Access Vehicle* may not leave the United States with the vehicle for personal use. The employee must have prior approval from the Authority to use the work vehicle for business purposes outside of the United States.

(f) Employees assigned to a *24-Hour Access Vehicle* may not leave the County of Erie with the vehicle for personal use. The employee must have prior approval from the Authority to use the work vehicle for business purposes when traveling more than 100 miles outside of the Authority's water district or service area.

(1) Except for the *Chief Operating Officer*, prior approval from the Authority means approval from the employee's immediate supervisor.

(2) The *Chief Operating Officer* has prior approval upon the filing of a staff report with the Secretary of the Authority before using the vehicle for business travel outside the 100-mile radius.

(3) Employees assigned to a *24-Hour Access Vehicle* must have a valid New York State driver's license.

(4) *Business Log*

(1) In accordance with *IRS* rules and regulations, an employee assigned to a *24-Hour Access Vehicle* must maintain a *business log*.

(2) The employee is solely responsible for recording and maintaining a *business log*.

(3) The *IRS* considers written records made at the time of each business use

are the best evidence.

- (4) Any use of a **24-Hour Access Vehicle** that is not substantiated as business use would be treated by the **IRS** as taxable income. Under such circumstances, the employee will be subject to the **working condition benefit rule**.

(5) **Annual Statement of Business Travel**

- (1) An employee assigned to a **24-Hour Access Vehicle** must provide an **annual statement of business travel** to the Authority during the month of December.
- (2) The employee is solely responsible for the content of the **annual statement of business travel**.
- (3) If the employee fails to provide the **annual statement of business travel**, the Authority is required under **IRS** rules and regulations to calculate personal use at 100% of the vehicle's **annual lease value**.

(6) The taxable fringe benefit for **personal use** of a **24-Hour Access Vehicle** is calculated by the Authority based on the **Lease Value Rule**.

(7) The **fuel value** for **personal use** by an employee assigned to a **24-Hour Access Vehicle** will be reported separately in the employee's wages pursuant to section 5 of this policy.

Section 3 Assigned Work Vehicle

(a) The **Authority** provides **Assigned Work Vehicles** to essential personnel who do not routinely report to one work location or who may be on-call for emergencies. **Assigned Work Vehicles** contain equipment necessary either to respond to an emergency or to perform daily work assignments.

(b) The **Authority** provides an **Assigned Work Vehicle** to an essential employee having one of the following titles: Director of Water Quality, Electrical Engineer, Control Operator Crew Chief, and Pump Mechanic Crew Chief.

(c) Employees using an **Assigned Work Vehicle** must have a valid New York State driver's license.

(d) An **Assigned Work Vehicle** must display **Authority** decals on the driver's and passenger's front doors.

(e) An essential employee with an **Assigned Work Vehicle**, as defined, may use the vehicle for business use and for limited **personal use** to commute to and from work.

(f) Commuting to and from work is considered under **IRS** rules as *personal use*.

(g) The taxable fringe benefit for *personal use* of an *Assigned Work Vehicle* is calculated by the Authority based on the *Commuting Rule*.

Section 5 FICA and Tax Withholdings

(a) *Calculated fringe benefits* will be reported on the employee's W-2 under "Wages, tips and other compensation" (Box 1) and "Other" (Box 14).

(b) As required by **IRS** rules and regulations, **FICA** will be withheld during the last pay period in December for income reported as a *calculated fringe benefit*.

(c) The Comptroller will not withhold state and federal income tax for income reported as a *calculated fringe benefit*. Employees having reported taxable income as a *calculated fringe benefit* are responsible for reporting and paying any taxable liability for income reported as a *calculated fringe benefit*.