



## **COMMONWEALTH OF PENNSYLVANIA**

# **EUGENE A. DEPASQUALE - AUDITOR GENERAL**

## **DEPARTMENT OF THE AUDITOR GENERAL**





Commonwealth of Pennsylvania Department of the Auditor General Harrisburg, PA 17120-0018 Facebook: Pennsylvania Auditor General Twitter: @PAAuditorGen

EUGENE A. DEPASQUALE AUDITOR GENERAL

## Independent Auditor's Report

The Honorable Barry J. Schoch, P.E. Secretary Department of Transportation Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Derry, Montour County, for the period January 1, 2011 to December 31, 2012. The municipality's management is responsible for the Forms MS-965. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting the Township of Derry, Montour County's Forms MS-965 for the period January 1, 2011 to December 31, 2012 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each municipality's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

As described in Note 4, the adjustments included on the Forms MS-965 With Adjustments are made by the Department of the Auditor General.

### Independent Auditor's Report (Continued)

In our opinion, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Township of Derry, Montour County, for the period January 1, 2011 to December 31, 2012, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Forms MS-965 and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Township of Derry, Montour County's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the Township of Derry, Montour County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Derry, Montour County's internal control. We consider the deficiency described in the finding below to be a significant deficiency in internal control over reporting on the Forms MS-965:

• Electronic Imaging Of Canceled Checks From The Bank Did Not Include The Back Of The Checks.

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-965 will not be prevented or detected by the Township of Derry, Montour County's internal control. Our consideration of internal control over reporting on the Forms MS-965 would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. We consider the significant deficiency described above to be a material weakness.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note an other matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

## Independent Auditor's Report (Continued)

• Contract Not Awarded To Lowest Responsible Bidder.

This report is intended solely for the information and use of the Pennsylvania Department of Transportation and the management of the Township of Derry, Montour County, and is not intended to be and should not be used by anyone other than these specified parties.

Eugent: O-Purger

September 19, 2013

EUGENE A. DEPASQUALE Auditor General

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## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE PERIOD JANUARY 1, 2011 TO DECEMBER 31, 2012

#### **Background**

The Liquid Fuels Tax Municipal Allocation Law, Title 72 P.S. § 2615.5, provides municipalities other than counties (townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage in the state, and (2) 50 percent on the proportion of a municipality's population to the total population in the state.

*The Vehicle Code*, Title 75 P.S. § 9511, provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

Each municipality must deposit the Liquid Fuels Tax Fund money and annual maintenance payments that it receives into a special fund called the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for road and bridge purposes. In this case, the municipality may borrow money or transfer money from its General Fund to its Liquid Fuels Tax Fund.

The Department of Transportation has been given the regulatory authority for the administration of these funds. To qualify for its annual allocation, each municipality shall submit the following documents and information to the Department of Transportation:

- 1. Evidence that the treasurer is bonded in accordance with the law, or that its treasurer is a bank requiring no bond by January 31 of each year.
- 2. A report indicating the manner in which its liquid fuels tax allocation was expended in the previous year (Form MS-965) by January 31 of each year.
- 3. A report of elected and appointed officials by January 31 of each year.
- 4. A Survey of Financial Condition by March 15 of each year.

Department of Transportation *Publication 9* contains the policies and procedures that govern the use of Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND 2011 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments		Adjusted Amount	
Major equipment purchases	\$	-	\$	-	\$	-
Minor equipment purchases		-		-		-
Computer/Computer related training		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		-		-		-
Traffic control devices		-		-		-
Street lighting		-		-		-
Storm sewers and drains		-		-		-
Repairs of tools and machinery		-		-		-
Maintenance and repair of roads and bridges		95,752.12		_		95,752.12
Highway construction and		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,				,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
rebuilding projects		-		-		-
Miscellaneous		-		-		-
Total (To Section 2, Line 5)	\$	95,752.12	\$	-	\$	95,752.12

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND 2011 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Reported		Adjustments		Adjusted Amount	
1. Balance, January 1, 2011	\$ 78.26		\$	-	\$	78.26		
Receipts:								
2. State allocation		57,914.58		-		57,914.58		
2a. Turnback allocation		37,640.00		-		37,640.00		
2b. Interest on investments (Note 3)		229.63		-		229.63		
2c. Miscellaneous		-		-		-		
3. Total receipts		95,784.21	. <u> </u>	-		95,784.21		
4. Total funds available		95,862.47		-		95,862.47		
5. Expenditures (Section 1)		95,752.12		_		95,752.12		
6. Balance, December 31, 2011	\$	110.35	\$	-	\$	110.35		

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND 2011 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Re	ported	Adjus (Not	tments e 4)	Adjusted Amount
1. Prior year equipment balance	\$	-	\$	78.26	\$ 78.26
<ol> <li>Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)</li> </ol>		19,110.92		-	19,110.92
3. PENNDOT approved adjustments					 
4. Total funds available for equipment acquisition		19,110.92		78.26	19,189.18
5. Less: Major equipment expenditures				-	 
6. Remainder		19,110.92		78.26	 19,189.18
<ul><li>7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)</li></ul>	\$	110.35	\$		\$ 110.35

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND 2012 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments (Note 4)		Adjusted Amount	
Major equipment purchases	\$	-	\$	-	\$	-
Minor equipment purchases		-		-		-
Computer/Computer related training		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		-		-		-
Traffic control devices		-		-		-
Street lighting		-		-		-
Storm sewers and drains		-		-		-
Repairs of tools and machinery		-		-		-
Maintenance and repair of roads and bridges		59,660.30		20,270.13		79,930.43
Highway construction and		27,000.20		20,270110		17,700110
rebuilding projects		20,270.13		(20,270.13)		-
Miscellaneous		-		-		-
Total (To Section 2, Line 5)	\$	79,930.43	\$		\$	79,930.43

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND 2012 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Reported		Adjustments		Adjusted Amount	
1. Balance, January 1, 2012			\$ -		\$	110.35		
Receipts:								
2. State allocation		55,804.10		-		55,804.10		
2a. Turnback allocation		37,640.00		-		37,640.00		
2b. Interest on investments (Note 3)		166.16		-		166.16		
2c. Miscellaneous		_		-		-		
3. Total receipts		93,610.26		-		93,610.26		
4. Total funds available		93,720.61		-		93,720.61		
5. Expenditures (Section 1)		79,930.43		-		79,930.43		
6. Balance, December 31, 2012	\$	13,790.18	\$	-	\$	13,790.18		

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND 2012 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance				Adjustments (Note 4)		Adjusted Amount
1. Prior year equipment balance	\$	-	\$	110.35	\$	110.35
<ol> <li>Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)</li> </ol>	1	18,688.82		-		18,688.82
3. PENNDOT approved adjustments						
4. Total funds available for equipment acquisition		18,688.82		110.35		18,799.17
5. Less: Major equipment expenditures						
6. Remainder		18,688.82		110.35		18,799.17
<ul><li>7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)</li></ul>	\$	13,790.18	\$		\$	13,790.18

#### 1. <u>Criteria</u>

#### Section 1

This section of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

- Major equipment purchases are purchases of road machinery and road equipment that cost in excess of \$4,000.00 prior to 2012 and in excess of \$10,000.00 during 2012 and subsequent years.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00 or less prior to 2012 and \$10,000.00 or less during 2012 and subsequent years.
- Agility projects are exchanges of services with the Department of Transportation.

## Section 2

This section of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is generally received from the Department of Transportation during the first week in April of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- The turnback allocation is generally received from the Department of Transportation during the first week in April of each year. A municipality receives a yearly turnback allocation based on road mileage for all roads that were transferred to the municipality from the Commonwealth of Pennsylvania through the Highway Transfer Program.
- Expenditures include the total transferred from Section 1.

#### 1. <u>Criteria (Continued)</u>

#### Section 3

This section of Form MS-965 With Adjustments determines if the municipality expended Liquid Fuels Tax Fund money in excess of the permissible amount for equipment and the balance that the municipality may carry forward for the purchase of equipment to the subsequent year.

Department of Transportation *Publication 9* requires that the amount expended for equipment purchases in a given year not exceed the sum of the equipment balance carried forward from the previous year and 20 percent of the current year's Liquid Fuels Tax Fund allocation and, if applicable, 20 percent of the turnback allocation plus other Department of Transportation approved adjustments.

If the municipality spent in excess of the amount listed on Line 4, the excess must be reimbursed to the Liquid Fuels Tax Fund.

The equipment balance to be carried forward for the subsequent year is the lesser of the amount on Line 6 or the ending fund balance on Line 6 of Section 2, but not less than zero.

#### **Basis Of Presentation**

The financial activities of the municipality are accounted for in separate funds. The Liquid Fuels Tax Fund is used to account for state aid revenues from the Pennsylvania Department of Transportation used primarily for building and improving local roads and bridges. The Forms MS-965 have been prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation as a result of the Fuels Tax Act 655, dated 1956 and as amended, which does not constitute a complete presentation of the entity's assets, liabilities, expenses, and fund balance. Accordingly, the presentation of Forms MS-965 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity.

#### **Basis Of Accounting**

The accompanying Forms MS-965 With Adjustments are prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation. Under this method, revenues are recognized when received and expenditures are recorded when paid.

#### 1. <u>Criteria (Continued)</u>

#### General Fixed Assets

General fixed assets are recognized as expenditures at the time of purchase. No depreciation has been provided on the heavy equipment used to maintain and repair roads and bridges.

#### 2. <u>Deposits</u>

*The Second Class Township Code*, Title 53 P.S. § 68204, authorizes the township to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit purchased from institutions insured by the FDIC or other like insurance to the extent that such accounts are so insured. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loan's or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in a financial institution. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

There were no deposits exposed to custodial credit risk as of December 31, 2012. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the municipality's name.

#### 2. <u>Deposits (Continued)</u>

#### Fund Balance

The fund balance as of December 31, 2012 consists of the following:

Cash

#### \$13,790.18

#### 3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$229.63 during 2011, and \$166.16 during 2012, thus providing additional funds for road maintenance and repairs.

#### 4. Adjustments

#### 2011 - Section 3

An adjustment of \$78.26 was made to "Prior year equipment balance" because the beginning balance was understated.

#### 2012 - Section 1

Adjustments were made to "Maintenance and repair of roads and bridges" and "Highway construction and rebuilding projects" because expenditures of \$20,270.13 were misclassified.

#### 2012 - Section 3

An adjustment of \$110.35 was made to "Prior year equipment balance" because the beginning balance was understated.

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2011 TO DECEMBER 31, 2012

#### Finding No. 1 - Electronic Imaging Of Canceled Checks From The Bank Did Not Include The Back Of The Checks

Our examination disclosed that the imaging of canceled checks from the bank for the Liquid Fuels Tax Fund account was not acceptable because the bank provides only an image of the front side of the canceled checks. For us to properly complete our examination testing, we have to examine the front and the back of the canceled checks.

Good internal controls and the Commonwealth of Pennsylvania Management Directive 210.11, dated June 16, 1997, require that imaging systems comply with the provisions of the Internal Revenue Service (IRS) procedures for record keeping with electronic imaging. To be acceptable, the documents provided by the system must meet IRS procedures governing size, content, format, and pattern. Those procedures require that all images produced by the imaging system exhibit a high degree of legibility and readability when displayed on paper. Legibility includes the ability to identify all letters and numerals positively and quickly. Readability includes the ability to recognize a group of letters or numerals as words or completed numbers. Imaged documents must include the front and back of a document in which both the front and back are used.

Further, good internal controls ensure that by having a municipal official review the front and back of the canceled checks, any errors or misappropriations can be detected on a timely basis.

Without this control, the potential exists for errors or misappropriations to go undetected for long periods of time.

The municipality obtained and provided us with copies of the backs of the canceled checks requested for examination.

#### Recommendations

We recommend that the municipal officials obtain images of the front and back of canceled checks in accordance with Directive 210.11. Additionally, municipal officials should review the front and back of each canceled check for any errors or misappropriations.

#### Management's Response

The municipal officials offered no formal response at this time.

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2011 TO DECEMBER 31, 2012

#### Finding No. 2 - Contract Not Awarded To Lowest Responsible Bidder

Our examination disclosed that on April 3, 2012, the township opened bids for sealcoat, which is road oil. It received three bids for the double and single bituminous sealcoat as follows:

	Single (	Coat Bid		Double C	oat Bid		
	Quantity Purchased	Price/gallon	Total	Quantity Purchased	Price/gallon	Total	Total Bid
Vendor A	38,525	\$1.18	\$45,459.50	1,865	\$2.250	\$4,196.25	\$49,655.75
Vendor B	38,525	1.374	\$52,933.35	1,865	3.225	\$6,014.63	\$58,947.98
Vendor C	38,525	1.420	\$54,705.50	1,865	2.830	\$5,277.95	\$59,983.45

Although Vendor A was the low bidder for the single and double bituminous sealcoat, Vendor C was awarded the bid. The reason given by the township for not awarding the contract to the lowest responsible bidder was that they were displeased with Vendor A's prior work in the township, which is a reasonable justification. The reason given by the township for not awarding the contract to Vendor B, the next lowest bidder, was that they had no experience with Vendor B and therefore rejected their bid. This is not considered an acceptable reason to reject a bid. On August 6, 2012, the township purchased 1,865 gallons of double bituminous sealcoat and 38,525 gallons of single bituminous seal coat from Vendor C for \$59,983.45. After an adjustment of \$323.15, the township paid Vendor C \$59,660.30. Had the township purchased the single and double bituminous sealcoat material from Vendor B, it would have saved \$712.32

The above purchase was not made in compliance with the advertising, bidding, and contract Requirements of *The Second Class Township Code*, 53 P.S. 68102(a), (also found at \$ 3102(a) of The Second class Township Code as published by the Local Government Commission), which states:

All contracts or purchases in excess of the required advertising amount of eighteen thousand five hundred dollars (\$18,500), except those specifically excluded, shall not be made except with and from the lowest responsible bidder...

#### **Recommendations**

We recommend that the township reimburse \$712.32 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township comply with *The Second Class Township Code* as noted in this finding.

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2011 TO DECEMBER 31, 2012

## Finding No. 2 - Contract Not Awarded To Lowest Responsible Bidder (Continued)

#### Management's Response

The township officials stated:

The bid was not awarded to Vendor A due to past experience with substandard workmanship where oil was not properly used. The Supervisors have no experience with Vendor B. The work performed by Vendor C has always been above reproach.

#### Auditor's Conclusion

Because the board of supervisors had an unfavorable experience with Vendor A, the contract should have been awarded to the next lowest responsible bidder, Vendor B.

The board of supervisors should ensure that the municipality complies with *The Second Class Township Code* as stated above. During our next examination we will determine if the municipality complied with our recommendations.

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2011 TO DECEMBER 31, 2012

An exit conference was held September 19, 2013. Those participating were:

## TOWNSHIP OF DERRY

The Honorable John Molter, Vice-Chairman of the Board of Supervisors

## DEPARTMENT OF THE AUDITOR GENERAL

Mr. Robert A. Bauder, Auditor

The results of the examination were presented and discussed in their entirety.

## TOWNSHIP OF DERRY MONTOUR COUNTY LIQUID FUELS TAX FUND REPORT DISTRIBUTION FOR THE PERIOD JANUARY 1, 2011 TO DECEMBER 31, 2012

This report was initially distributed to:

The Honorable Barry J. Schoch, P.E. Secretary Department of Transportation

> Township of Derry Montour County 109 Shed Road Danville, PA 17821

The Honorable Gregory L. Molter

Chairman of the Board of Supervisors

Ms. Vicki E. Koser

Secretary/Treasurer

This report is a matter of public record and is available online at <u>www.auditorgen.state.pa.us</u>. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: <u>news@auditorgen.state.pa.us</u>.