ATTESTATION ENGAGEMENT

Township of West Sadsbury

Chester County, Pennsylvania

15-252

Liquid Fuels Tax Fund

For the Period

January 1, 2014 to December 31, 2014

March 2016

Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General

Commonwealth of Pennsylvania
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EUGENE A. DEPASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Leslie Richards
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of West Sadsbury, Chester County, for the period January 1, 2014 to December 31, 2014. The municipality's management is responsible for the Form MS-965. Our responsibility is to express an opinion on the Form 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 West Sadsbury, Chester County's Form MS-965 for the period January 1, 2014 to December 31, 2014 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 Form MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in the Finding and Recommendations section of this report, the township expended $6,321.43 during 2014 from the Liquid Fuels Tax Fund for vehicle and equipment repair at a service center that is owned by a township supervisor, which represent related party transactions.

In our opinion, except for the matter discussed in the preceding paragraph, the Form MS-965 With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Township of West Sadsbury, Chester County, for the period January 1, 2014 to December 31, 2014, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Form MS-965; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Form MS-965. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Form MS-965 is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Form MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A *deficiency in internal control* 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 and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Form MS-965 will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over reporting on the Form MS-965 was for the limited purpose of expressing an opinion on whether the Form MS-965 is presented in accordance with the criteria described above and would not necessarily identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Form MS-965 is free from material misstatement, we performed tests of the Township of West Sadsbury, Chester County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Form MS-965. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Related Party Transactions.

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

We appreciate the courtesy extended by the Township of West Sadsbury, Chester County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.

March 8, 2016

Eugene A. DePasquale
Auditor General

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TOWNSHIP OF WEST SADSBURY
CHESTER COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2014

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 WEST SADSBURY
CHESTER COUNTY
LIQUID FUELS TAX FUND
2014 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

Expenditure Summary	Reported	Adjustments (Note 4)	Adjusted Amount
Major equipment purchases	$ 3,074.23	$ -	$ 3,074.23
Minor equipment purchases	23,792.25	-	23,792.25
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	26,899.00	-	26,899.00
Traffic control devices	4,411.69	-	4,411.69
Street lighting	248.55	-	248.55
Storm sewers and drains	-	-	-
Repairs of tools and machinery	42,347.49	13.85	42,361.34
Maintenance and repair of roads and bridges	115,160.52	-	115,160.52
Highway construction and rebuilding projects	42,427.51	-	42,427.51
Miscellaneous (Bank service charges)	38.85	(13.85)	25.00
Total (To Section 2, Line 5)	$ 258,400.09	$ -	$ 258,400.09

Notes to Form MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF WEST SADSBURY
CHESTER COUNTY
LIQUID FUELS TAX FUND
2014 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

Fund Balance	Reported	Adjustments	Adjusted Amount
1. Balance, January 1, 2014	$ 202,561.74	$ -	$ 202,561.74
Receipts:			
2. State allocation	77,045.37	-	77,045.37
2a. Turnback allocation	17,480.00	-	17,480.00
2b. Interest on investments (Note 3)	788.45	-	788.45
2c. Miscellaneous	-	-	-
3. Total receipts	95,313.82	-	95,313.82
4. Total funds available	297,875.56	-	297,875.56
5. Expenditures (Section 1)	258,400.09	-	258,400.09
6. Balance, December 31, 2014	$ 39,475.47	$ -	$ 39,475.47

Notes to Form MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF WEST SADSBURY
CHESTER COUNTY
LIQUID FUELS TAX FUND
2014 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

Equipment Balance	Reported	Adjustments (Note 4)	Adjusted Amount
1. Prior year equipment balance	$ 109,332.02	$ (2,758.85)	$ 106,573.17
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	18,905.07	-	18,905.07
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	128,237.09	(2,758.85)	125,478.24
5. Less: Major equipment expenditures	3,074.23	-	3,074.23
6. Remainder	125,162.86	(2,758.85)	122,404.01
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	$ 39,475.47	$ -	$ 39,475.47

Notes to Form MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF WEST SADSBURY
CHESTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2014

1. Criteria

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 with varying yearly costs in excess of the amounts indicated below:

Prior To 2012	2012	2013	2014
$4,000.00	$10,000.00	$10,200.00	$10,300.00

- Minor equipment purchases are purchases of road machinery and road equipment with varying yearly costs, or less, than the amounts indicated below:

Prior To 2012	2012	2013	2014
$4,000.00	$10,000.00	$10,200.00	$10,300.00

- 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 was received from the Department of Transportation in March of each year beginning in 2014. The amount the municipality receives is based half on its population and half on its road mileage.

- The turnback allocation was received from the Department of Transportation in March of each year beginning in 2014. 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.

1. Criteria (Continued)

Section 2 (Continued)

- Expenditures include the total transferred from Section 1.

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.

1. Criteria (Continued)

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.

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. Deposits

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 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.

2. Deposits (Continued)

There were no deposits exposed to custodial credit risk as of December 31, 2014. 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.

Fund Balance

The fund balance consists of the following:

Cash	$39,475.47

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in interest-bearing accounts which earned $788.45 during 2014, thus providing additional funds for road maintenance and repairs.

4. Adjustments

Section 1

Adjustments were made to "Repairs of tools and machinery" and "Miscellaneous" because expenditures of $13.85 were misclassified.

Section 3

An adjustment of $(2,758.85) was made to "Prior year equipment balance" because an incorrect equipment balance was carried forward.

5. Lease-Purchase Agreement

On December 9, 2014, the municipality entered into a lease-purchase agreement with Fulton Bank to purchase 2015 Ford F-550 for $47,670.00. The agreement was for a term of 5 years at an interest rate of 3.29 percent. Principal and interest payments of $2,574.23 are due quarterly.

During the current examination period, the municipality paid principal of $2,569.93 and interest of $4.30 from the Liquid Fuels Tax Fund. Additionally, the municipality paid a one-time acquisition fee of $500.00. These amounts are reflected in major equipment purchases on the 2014 Form MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2014 was $45,100.07, plus interest.

Finding - Related Party Transactions

Our examination disclosed that the township expended $6,321.43 during 2014 from the Liquid Fuels Tax Fund for vehicle and equipment repair at a service center. A township supervisor is listed as the owner of the service center. Due to the township supervisor's financial interest in the company and the lack of an open and public award process, these expenditures appear to violate *The Second Class Township Code* and The Public Official and Employee Ethics Act. Therefore, they should not have been paid by the township.

The Second Class Township Code, 53 P.S. § 68102(i), as amended, states, in part:

> No township official, either elected or appointed, or township employee who knows, or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the township or for any work to be done for such township involving the expenditure by the township of more than five hundred dollars ($500.00) in any year unless the contract is awarded through the public bid process. This limitation does not apply if the officer or appointee of the township is an employee of the person, firm or corporations to which the money is to be paid in a capacity with no possible influence on the transaction and the officer cannot possibly be benefited thereby, either financially or otherwise. If a supervisor is within this exception, the supervisor shall so inform the board of supervisors and refrain from voting on the payments and shall in no manner participate in the contract. . . .

This information is also published in § 3102(i) of *The Second Class Township Code* as published by the Local Government Commission.

Finding - Related Party Transactions (Continued)

The Public Official and Employee Ethics Act ("Ethics Act"), 65 P.S. 1103(f), states, in part:

> No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at $500 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at $500 or more with any person who has been awarded a contract with the governmental body with which the public official or public employee is associated, unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.

Because these expenditures violate *The Second Class Township Code* and the Ethics Act, the township could be required by the Pennsylvania Department of Transportation to reimburse $6,321.43 to its Liquid Fuels Tax Fund.

Copies of this finding will be forwarded to the Pennsylvania Department of Transportation and the State Ethics Commission for their review and whatever action they may deem appropriate.

Recommendations

We recommend that the township reimburse $6,321.43 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township complies with *The Second Class Township Code* and the Ethics Act.

Management's Response

The township officials offered no formal response at this time.

Auditor's Conclusion

During our next examination we will determine if the township complied with our recommendations.

TOWNSHIP OF WEST SADSBURY
CHESTER COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2014

An exit conference was held February 10, 2016. Those participating were:

TOWNSHIP OF WEST SADSBURY

Ms. Cynthia Mammarella, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Vince Gillen, Auditor

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

TOWNSHIP OF WEST SADSBURY
CHESTER COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2014

This report was initially distributed to:

The Honorable Leslie Richards
Secretary
Department of Transportation

Mr. Robert P. Caruso
Executive Director
State Ethics Commission
Room 309-Finance Building
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Harrisburg, PA 17108

Township of West Sadsbury
Chester County
6400 North Moscow Road
Parkesburg, PA 19365

The Honorable Francis Haas
Chairman of the Board of Supervisors

Ms. Cynthia Mammarella
Secretary/Treasurer

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.