ATTESTATION ENGAGEMENT

Borough of Central City

Somerset County, Pennsylvania 55-406

Liquid Fuels Tax Fund
For the Period
January 1, 2021 to December 31, 2022

January 2024



Commonwealth of Pennsylvania Department of the Auditor General

Timothy L. DeFoor • Auditor General



Commonwealth of Pennsylvania
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TIMOTHY L. DEFOOR AUDITOR GENERAL

Independent Auditor's Report

The Honorable Michael Carroll Secretary Department of Transportation Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Central City, Somerset County, for the period January 1, 2021 to December 31, 2022. The municipality's management is responsible for presenting the Forms MS-965 in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*. 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 involves performing procedures to obtain reasonable assurance about whether the Forms MS-965 are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms MS-965. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Forms MS-965, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and to meet our other ethical responsibilities in accordance with ethical requirements relating to the engagement.

As discussed in Finding No. 1, the municipality expended \$8,918.28 during 2022 for related party transactions. Additionally, as discussed in Finding No. 2, the municipality deposited \$8,906.00 of Liquid Fuels Tax Fund money into the General Fund in error.

<u>Independent Auditor's Report (Continued)</u>

In our opinion, except for the matters discussed in the preceding paragraph, 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 Borough of Central City, Somerset County, for the period January 1, 2021 to December 31, 2022, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

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 Forms 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 Forms 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 Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Forms 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 Forms 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 Forms MS-965 was for the limited purpose of expressing an opinion on whether the Forms MS-965 are 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.

<u>Independent Auditor's Report (Continued)</u>

As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of the Borough of Central City, Somerset 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 Forms 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.
- Liquid Fuels Money Deposited Into The General Fund.

The purpose of this report is to determine whether the municipality's Liquid Fuels Tax Fund money is spent in accordance with the laws and regulations identified in the Background section of this report and the Department of Transportation's *Publication 9*. This report is not suitable for any other purpose.

We appreciate the courtesy extended by the Borough of Central City, Somerset County, to us during the course of our examination. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

Timothy L. DeFoor Auditor General

January 4, 2024

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Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, see also 72 P.S. § 2615.5, et sec., provides municipalities other than counties (i.e., 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 upon: (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.

Title 75 Pa.C.S. § 9511 of the Pennsylvania Vehicle Code 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 allocation of Liquid Fuels Tax funds and annual maintenance payments that it receives into a special fund called either 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 such a 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. Department of Transportation's *Publication 9* includes the policies and procedures for the administration of Act 655, as amended, and the Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

To qualify for the annual allocation of Liquid Fuels Tax funds, *Publication 9* indicates that each municipality shall:

- 1. Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
- 2. Make deposits and payments or expenditures in compliance with Act 655 of 1956, as amended. Failure to do so may result in not receiving allocations from PennDOT until all discrepancies are resolved. *Publication 9*, Section 2.6, includes information about investing Liquid Fuels Tax monies, using loan or bond proceeds, and types of receipts into the Liquid Fuels Tax Fund.

Background (Continued)

- 3. Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition By March 15th.
- 4. Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- 5. Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation's Financial Consultants.

Criteria

The criteria for the Form MS-965 With Adjustment are described below.

Section 1 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:

2019	2020	2021	2022
44.400.00	444 200 00	44.5 00.00	** **********************************
\$11,100.00	\$11,300.00	\$11,500.00	\$11,800.00

• Minor equipment purchases are purchases of road machinery and road equipment with varying yearly costs that are less than or equal to the amounts indicated below:

2019	2020	2021	2022
\$11,100.00	\$11,300.00	\$11,500.00	\$11,800.00

• Agility projects are exchanges of services with the Department of Transportation.

Background (Continued)

Section 2 of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is available from the Department of Transportation in March of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- Municipalities that transferred roads from the Commonwealth of Pennsylvania to the municipality through the Highway Transfer Program receive annual turnback allocations in March of each year from the Department of Transportation. Turnback allocations are based on the mileage of the roads transferred.
- Expenditures include the total transferred from Section 1.

Section 3 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.

Background (Continued)

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 Form MS-965 has 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 Form 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 is 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.

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND 2021 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments		Adjusted Amount	
Minor equipment purchases	\$	-	\$	_	\$	-
Computer/Computer related training		-		-		-
Major equipment purchases		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		2,578.77		-		2,578.77
Traffic control devices		896.18		-		896.18
Street lighting		-		-		-
Storm sewers and drains		-		-		-
Repairs of tools and machinery		1,957.84		-		1,957.84
Maintenance and repair of						
roads and bridges		193.21		-		193.21
Highway construction and						
rebuilding projects		45,067.88		-		45,067.88
Miscellaneous		-				
Total (To Section 2, Line 5)	\$	50,693.88	\$		\$	50,693.88

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND 2021 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	Adj	ustments	Adjusted Amount
1. Balance, January 1, 2021	\$ 59,124.27	\$	-	\$ 59,124.27
Receipts: 2. State allocation 2a. Turnback allocation	46,723.18		- -	46,723.18
2b. Interest on investments 2c. Miscellaneous	9.76		- -	 9.76 -
3. Total receipts	46,732.94		-	 46,732.94
4. Total funds available	 105,857.21			 105,857.21
5. Expenditures (Section 1)	 50,693.88		-	 50,693.88
6. Balance, December 31, 2021	\$ 55,163.33	\$		\$ 55,163.33

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND 2021 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported		Reported		Reported		Reported		Reported		Reported		Reported		Reported		Reported Adjustments		Adjusted Amount	
1. Prior year equipment balance	\$	36,858.28	\$	-	\$	36,858.28														
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)		9,344.64		-		9,344.64														
3. PENNDOT approved adjustments				_																
4. Total funds available for equipment acquisition		46,202.92		-		46,202.92														
5. Less: Major equipment expenditures				-																
6. Remainder		46,202.92			· 	46,202.92														
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$	46,202.92	\$	-	\$	46,202.92														

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND 2022 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments		Adjusted Amount	
Minor equipment purchases	\$	-	\$	-	\$	_
Computer/Computer related training		-		-		-
Major equipment purchases		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		4,599.39		-		4,599.39
Traffic control devices		2,409.56		-		2,409.56
Street lighting		-		-		-
Storm sewers and drains		1,296.80		-		1,296.80
Repairs of tools and machinery		13,695.87		-		13,695.87
Maintenance and repair of						
roads and bridges		799.57		-		799.57
Highway construction and						
rebuilding projects		-		-		-
Miscellaneous		_				-
Total (To Section 2, Line 5)	\$	22,801.19	\$		\$	22,801.19

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND 2022 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Reported Adjustments		stments	Adjusted Amount		
1. Balance, January 1, 2022	\$	55,163.33	\$	-	\$	55,163.33		
Receipts: 2. State allocation		44,359.33		-		44,359.33		
2a. Turnback allocation2b. Interest on investments2c. Miscellaneous		1,503.15 28,906.00		- - -		1,503.15 28,906.00		
3. Total receipts		74,768.48				74,768.48		
4. Total funds available		129,931.81				129,931.81		
5. Expenditures (Section 1)		22,801.19				22,801.19		
6. Balance, December 31, 2022	\$	107,130.62	\$	_	\$	107,130.62		

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND 2022 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported		Reported Adjustments		Adjusted Amount
1. Prior year equipment balance	\$	46,202.92	\$	-	\$ 46,202.92
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)		8,871.87		-	8,871.87
3. PENNDOT approved adjustments					 <u> </u>
4. Total funds available for equipment acquisition		55,074.79		-	55,074.79
5. Less: Major equipment expenditures					 <u> </u>
6. Remainder		55,074.79			 55,074.79
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$	55,074.79	\$	<u>-</u>	\$ 55,074.79

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND AUDITOR DESCRIPTION OF SELECT TRANSACTIONS FOR THE PERIOD JANUARY 1, 2021 TO DECEMBER 31, 2022

The following information relates to certain types of transactions for which the Pennsylvania Department of Transportation requested that we provide additional detail.

Miscellaneous Receipts

The following miscellaneous receipts were deposited into the Liquid Fuels Tax Fund during the examination period:

Source	Description	2022
General Fund	Reimbursement (Summary Of Prior Examination	
	Recommendations)	\$20,000.00
General Fund	Reimbursement (Finding No. 2)	8,906.00
Totals		\$28,906.00

Finding No. 1 - Related Party Transactions

Our examination disclosed that the borough expended \$8,918.28 during 2022 from the Liquid Fuels Tax Fund for parts and repairs to borough equipment. The secretary/treasurer is the mother of the owner of the business from where parts and repairs were purchased. Due to the secretary/treasurer's son's financial interest in the company and the lack of an open and public award process, these purchases appear to violate *The Borough Code*. Therefore, they should not have been entered into by the borough.

The Borough Code, 53 P.S. § 46404, as amended, states, in part:

No borough official, either elected or appointed, or borough 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 purchase made or contract entered into or expenditure of money made by the borough or relating to the business of the borough, involving the expenditure by the borough of more than one thousand dollars (\$1000.00) in any calendar year, but this limitation shall not apply to cases where such officer or appointee of the borough is an employe of the person, firm or corporation to which the money is to be paid in a capacity with no possible influence on the transaction and in which he cannot be possibly benefited thereby either financially or otherwise. But in the case of a councilman or mayor, if he knows that he is within the exception just mentioned he shall so inform council and shall refrain from voting on the expenditure or any ordinance relating thereto and shall in no manner participate therein. . . .

The secretary/treasurer stated the cause of the condition was being unaware of the requirements for doing business with a relative.

This information is also published in § 1404 of *The Borough Code* as published by the Local Government Commission.

Recommendations

We recommend that the borough reimburse \$8,918.28 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the borough comply with *The Borough Code*.

Finding No. 1 - Related Party Transactions (Continued)

Management's Response

The secretary/treasurer stated:

The repair shop is owned by my son. My son is a certified diesel mechanic in our local area. He does mechanic work for the borough. I started as the Secretary/Treasurer in October 2020. I did check with our Municipal Services Specialist for our area regarding repair of the borough's backhoe. He provided me with the bidding thresholds. I was not aware there is a different threshold if the vendor is related. There is no other local certified diesel mechanics.

Auditor's Conclusion

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

Finding No. 2 - Liquid Fuels Money Deposited Into The General Fund

Our examination disclosed that the municipality deposited \$8,906.00 into the General Fund on October 15, 2021. This money was received from Shade Township for the reimbursement of its share of a joint road project. Because the road project was paid from the municipality's Liquid Fuels Tax Fund, depositing the reimbursement into the municipality's General Fund is in noncompliance with the Liquid Fuels Tax Municipal Allocation Law.

The practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account is contrary to the Act of June 1, 1956, P.L. (1955) 1944, 72 P.S. § 2615.5, known as the Liquid Fuels Tax Municipal Allocation Law, which states:

...each city, borough, town and township, shall ... Establish and maintain a special fund into which the moneys [liquid fuels tax funds] ... shall be deposited and into which no other moneys may be deposited or commingled . . .

The risk that Liquid Fuels Tax Fund money may be used for unauthorized purposes increases when liquid fuels money is commingled with other funds.

The finding occurred because the municipality was unsure of where to deposit the reimbursement of funds from the other municipality.

On March 23, 2022, the municipality reimbursed \$8,906.00 to the Liquid Fuels Tax Fund.

Recommendation

We recommend that the municipality deposit all liquid fuels tax money promptly into the Liquid Fuels Tax Fund.

Management's Response

The secretary/treasurer stated:

I was a new employee and did not know which account to deposit the reimbursement from Shade Township. I did ask the municipal services representative and was told it really didn't matter which account as long as it was deposited. When this mistake was caught, I did correct my mistake and deposit the funds to the correct PLGIT account.

Finding No. 2 - Liquid Fuels Money Deposited Into The General Fund (Continued)

Auditor's Conclusion

During our next examination we will determine if the municipality complied with our recommendation.

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2021 TO DECEMBER 31, 2022

Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$20,000.00 to its Liquid Fuels Tax Fund for restrictive bidding.

During our current examination we reviewed a letter dated June 17, 2022 from the Department of Transportation directing the municipality to reimburse \$20,000.00 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on August 25, 2022.

In our prior report we also recommended that the municipality follow with the Department of Transportation's *Publication 9* if it uses brand names in future advertisements for purchases.

During our current examination we noted that the municipality complied with our recommendations.

BOROUGH OF CENTRAL CITY SOMERSET COUNTY LIQUID FUELS TAX FUND SUMMARY OF ONSITE CLOSEOUT MEETING FOR THE PERIOD JANUARY 1, 2021 TO DECEMBER 31, 2022

An onsite closeout meeting was held November 2, 2023 Those participating were:

BOROUGH OF CENTRAL CITY

Mrs. Kimberly Custer, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Penelope Fjellanger, Auditor

This report was initially distributed to:

The Honorable Michael Carroll

Secretary
Department of Transportation

Borough of Central City

Somerset County 314 Central Avenue Suite 201 Central City, PA 15926

The Honorable Daniel T. Dabbs Mayor

The Honorable Robert Sanzo President of Council

Mrs. Kimberly Custer 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.