



**TOWNSHIP OF OSWAYO
POTTER COUNTY
52-213**

**LIQUID FUELS TAX FUND
EXAMINATION REPORT**

**FOR THE THREE YEARS ENDED
DECEMBER 31, 2011**

Released March 2013

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL





TOWNSHIP OF OSWAYO
POTTER COUNTY
52-213

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

CONTENTS

	<u>Page</u>
Background.....	1
Independent Auditor’s Report.....	3
Financial Section:	
2009 Form MS-965 With Adjustments	7
2010 Form MS-965 With Adjustments	10
2011 Form MS-965 With Adjustments	13
Notes To Forms MS-965 With Adjustments.....	16
Findings And Recommendations:	
Finding No. 1 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements	21
Finding No. 2 - Contract Not Awarded To The Lowest Responsible Bidder	23
Finding No. 3 - Nonpermissible Expenditure.....	25
Comment.....	27
Summary Of Exit Conference.....	28
Report Distribution	29

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

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.





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 Oswayo, Potter County, for the three years ended December 31, 2011. 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 Oswayo, Potter County's Forms MS-965 for the three years ended December 31, 2011 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)

As discussed in Finding No. 1, the township expended \$15,500.00 during 2011 from its Liquid Fuels Tax Fund for the rental of a grader without advertising for bids. Additionally, the township expended \$20,749.95 for stone but failed to advertise for bids for bank run gravel costing \$6,134.85. Furthermore, as discussed in Finding No. 2, the municipality failed to award a bid for 2A Stone to the lowest responsible bidder causing the township to expend an extra \$1,461.51 for the stone. Also, as discussed in Finding No. 3, the municipality expended \$180.00 for CDL drug testing, which is a nonpermissible expenditure.

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 Township of Oswayo, Potter County, for the three years ended December 31, 2011, 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 Oswayo, Potter 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 Oswayo, Potter County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Oswayo, Potter County's internal control.

Independent Auditor's Report (Continued)

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 Oswayo, Potter County's internal control.

Our consideration of internal control over reporting on the Forms MS-965 was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Forms MS-965.

The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements.
- Contract Not Awarded To The Lowest Responsible Bidder.
- Nonpermissible Expenditure.

We are concerned in light of the municipality's failure to correct a previously reported finding regarding purchases over \$10,000.00 in noncompliance with advertising and bidding requirements. During our current examination the municipality made purchases over \$10,000.00 in noncompliance with advertising and bidding requirements, failed to award a contract to the lowest responsible bidder, and made nonpermissible expenditures. The municipality should strive to implement the recommendations and corrective actions noted in this report.

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



April 23, 2012

EUGENE A. DEPASQUALE
Auditor General



TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 7,324.39	\$ -	\$ 7,324.39
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	5,064.65	-	5,064.65
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	5,503.60	-	5,503.60
Maintenance and repair of roads and bridges	27,098.01	-	27,098.01
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 44,990.65</u>	 <u>\$ -</u>	 <u>\$ 44,990.65</u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2009	\$ 107,731.52	\$ -	\$ 107,731.52
Receipts:			
2. State allocation	56,255.10	-	56,255.10
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	1,717.26	2.09	1,719.35
2c. Miscellaneous	-	-	-
3. Total receipts	<u>57,972.36</u>	<u>2.09</u>	<u>57,974.45</u>
4. Total funds available	<u>165,703.88</u>	<u>2.09</u>	<u>165,705.97</u>
5. Expenditures (Section 1)	<u>44,990.65</u>	-	<u>44,990.65</u>
6. Balance, December 31, 2009	<u><u>\$ 120,713.23</u></u>	<u><u>\$ 2.09</u></u>	<u><u>\$ 120,715.32</u></u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 82,993.04	\$ -	\$ 82,993.04
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	11,251.02	-	11,251.02
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	94,244.06	-	94,244.06
5. Less: Major equipment expenditures	7,324.39	-	7,324.39
6. Remainder	<u>86,919.67</u>	<u>-</u>	<u>86,919.67</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 86,919.67</u>	<u>\$ -</u>	<u>\$ 86,919.67</u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2010 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 7,324.39	\$ -	\$ 7,324.39
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	4,312.11	-	4,312.11
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	1,766.31	-	1,766.31
Maintenance and repair of roads and bridges	19,685.93	-	19,685.93
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 33,088.74</u>	<u>\$ -</u>	<u>\$ 33,088.74</u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2010 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2010	\$ 120,713.23	\$ 2.09	\$ 120,715.32
Receipts:			
2. State allocation	53,983.32	-	53,983.32
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	1,011.30	4.47	1,015.77
2c. Miscellaneous (Note 5)	19,436.06	3,092.37	22,528.43
3. Total receipts	<u>74,430.68</u>	<u>3,096.84</u>	<u>77,527.52</u>
4. Total funds available	<u>195,143.91</u>	<u>3,098.93</u>	<u>198,242.84</u>
5. Expenditures (Section 1)	<u>33,088.74</u>	<u>-</u>	<u>33,088.74</u>
6. Balance, December 31, 2010	<u><u>\$ 162,055.17</u></u>	<u><u>\$ 3,098.93</u></u>	<u><u>\$ 165,154.10</u></u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2010 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 86,919.67	\$ -	\$ 86,919.67
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	10,796.66	-	10,796.66
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	97,716.33	-	97,716.33
5. Less: Major equipment expenditures	7,324.39	-	7,324.39
6. Remainder	<u>90,391.94</u>	<u>-</u>	<u>90,391.94</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 90,391.94</u>	<u>\$ -</u>	<u>\$ 90,391.94</u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2011 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 7,324.39	\$ -	\$ 7,324.39
Minor equipment purchases	789.31	-	789.31
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	7,272.21	-	7,272.21
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	14,010.32	-	14,010.32
Maintenance and repair of roads and bridges	43,338.69	3,580.00	46,918.69
Highway construction and rebuilding projects	-	-	-
Miscellaneous	3,580.00	(3,580.00)	-
	<u> </u>	<u> </u>	<u> </u>
Total (To Section 2, Line 5)	<u>\$ 76,314.92</u>	<u>\$ -</u>	<u>\$ 76,314.92</u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2011 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2011	\$ 162,055.17	\$ 3,098.93	\$ 165,154.10
Receipts:			
2. State allocation	55,221.67	-	55,221.67
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	850.80	-	850.80
2c. Miscellaneous	-	-	-
3. Total receipts	<u>56,072.47</u>	<u>-</u>	<u>56,072.47</u>
4. Total funds available	<u>218,127.64</u>	<u>3,098.93</u>	<u>221,226.57</u>
5. Expenditures (Section 1)	<u>76,314.92</u>	<u>-</u>	<u>76,314.92</u>
6. Balance, December 31, 2011	<u><u>\$ 141,812.72</u></u>	<u><u>\$ 3,098.93</u></u>	<u><u>\$ 144,911.65</u></u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
2011 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 90,391.94	\$ -	\$ 90,391.94
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	11,044.33	-	11,044.33
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	101,436.27	-	101,436.27
5. Less: Major equipment expenditures	7,324.39	-	7,324.39
6. Remainder	<u>94,111.88</u>	<u>-</u>	<u>94,111.88</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 94,111.88</u>	<u>\$ -</u>	<u>\$ 94,111.88</u>

Notes To Forms MS-965 With Adjustments are an integral part of this report.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

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 that cost in excess of \$4,000.00.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00 or less.
- 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.

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.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

1. Criteria (Continued)

Section 3 (Continued)

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.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

1. Criteria (Continued)

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'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, 2011. 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.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

2. Deposits (Continued)

Fund Balance

The fund balance as of December 31, 2011 consists of the following:

Cash	<u><u>\$144,911.65</u></u>
------	----------------------------

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in interest-bearing accounts which earned \$1,719.35 during 2009, \$1,015.77 during 2010, and \$850.80 during 2011, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2009 - Section 2

An adjustment of \$2.09 was made to “Interest on investments” because interest earnings were understated.

2010 - Section 2

An adjustment of \$2.09 was made to “Balance, January 1, 2010” to reflect the adjustment made to the fund balance in 2009 - Section 2.

An adjustment of \$4.47 was made to “Interest on investments” because interest earnings were understated.

An adjustment of \$3,092.37 was made to “Miscellaneous” because these receipts were understated.

2011 - Section 1

Adjustments were made to “Maintenance and repair of roads and bridges” and “Miscellaneous” because expenditures of \$3,580.00 were misclassified.

TOWNSHIP OF OSWAYO
 POTTER COUNTY
 LIQUID FUELS TAX FUND
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS
 FOR THE THREE YEARS ENDED
 DECEMBER 31, 2011

4. Adjustments (Continued)

2011 - Section 2

An adjustment of \$3,098.93 was made to “Balance, January 1, 2011” to reflect the adjustment made to the fund balance in 2010 - Section 2.

5. Miscellaneous Receipts

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

Source	Description	2010
General Fund	County aid	\$ 3,092.37
General Fund	Reimbursement (Comment)	19,436.06
Total		\$22,528.43

6. Lease-Purchase Agreement

On July 6, 2005, the municipality entered into a lease-purchase agreement with M&T Bank to purchase a backhoe for \$42,397.00. The agreement was for a term of seven years at an interest rate of 4.99 percent. Principal and interest payments of \$7,324.39 are due annually. Prior years’ principal and interest payments from the Liquid Fuels Tax Fund were \$16,419.07 and \$5,554.00, respectively.

During the current examination period the municipality paid principal of \$19,001.68 and interest of \$2,971.49 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2009, 2010, and 2011 Forms MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2011 was \$6,976.25, plus interest.

TOWNSHIP OF OSWAYO
 POTTER COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
 FOR THE THREE YEARS ENDED
 DECEMBER 31, 2011

Finding No. 1 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the township expended \$15,500.00 during 2011 from the Liquid Fuels Tax Fund for the rental of a grader without advertising for bids. This expenditure is as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
None	08/17/11	2529	09/12/11	<u>\$15,500.00</u>

Additionally, the township expended \$6,134.85 during 2011 from the Liquid Fuels Tax Fund for bank run gravel. The township also expended \$14,615.10 for 2A Stone. The township did advertise for bids for the 2A Stone. However, it was not awarded to the lowest responsible bidder (Finding No. 2). Because all types of stone are considered to be like items the township should have advertised for bids for the bank run gravel. However, the township did not advertise for bids. These expenditures were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
92	08/17/11	2531	09/12/11	\$5,134.85
128	11/01/11	2538	11/07/11	<u>1,000.00</u>
Total				<u>\$6,134.85</u>

The above expenditures were 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 requires that purchases over \$10,000.00 must be advertised, bid, and awarded by contract. *The Second Class Township Code*, 53 P.S. § 68104(a), (also found at § 3104(a) of *The Second Class Township Code* as published by the Local Government Commission) further states that advertising, bidding, and contract requirements should not be evaded through piecemeal purchases.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

Finding No. 1 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements (Continued)

In addition, the above expenditures were not made in compliance with the Department of Transportation's *Publication 9*, Appendix D, Section 449.7(d), which states, in part:

Each municipality shall make an annual estimate of its requirements of road construction and maintenance materials, and shall advertise for bids on all items and groups of like items ordinarily supplied by a single supplier . . . which are estimated to exceed \$10,000 for the year If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000 . . . the entire cost shall be ineligible for payment from the Liquid Fuels Tax Fund unless it can be shown to the satisfaction of the Secretary [of the Department of Transportation] that it was reasonably believed that the cost of the year's requirements of that item or group of like items would not exceed \$10,000 . . .

The failure to comply with *The Second Class Township Code* and the Department of Transportation's *Publication 9* could result in the township having to reimburse \$21,634.85 to its Liquid Fuels Tax Fund.

A similar finding was also written in our prior report.

Recommendations

We recommend that the township reimburse \$21,634.85 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that, in the future, the township comply with *The Second Class Township Code* and the Department of Transportation's *Publication 9* as noted in this finding.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the municipality comply with our recommendations.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

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

Our examination disclosed that on March 7, 2011, the township opened bids for 2A Stone. It received two bids for the 2A Stone as follows:

<u>Vendor</u>	<u>Price/Ton</u>
Vendor A	\$12.15
Vendor B	13.50

Although Vendor A was the low bidder for the 2A Stone, Vendor B was awarded the bid. No reason was given by the township for not awarding the contract to the lowest responsible bidder. On September 12, 2011, the township expended \$14,615.10 from its Liquid Fuels Tax Fund for the purchase of 1,082.6 tons of 2A Stone from Vendor B. Had the township purchased the stone from Vendor A, it would have saved \$1,461.51.

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 ten thousand dollars (\$10,000), except those specifically excluded, shall not be made except with and from the lowest responsible bidder...

The failure to comply with *The Second Class Township Code* and the Department of Transportation's *Publication 9* could result in the township having to reimburse \$1,461.51 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$1,461.51 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 OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

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

Management's Response

The secretary/treasurer stated:

The supervisors are confused about the responsibility of taking the lowest bids.

Auditor's Conclusion

The municipality must accept the lowest responsible bids when awarding contracts. The township supervisors should contact their Municipal Services representative for assistance in determining who the lowest responsible bidder is. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

Finding No. 3 - Nonpermissible Expenditure

Our examination disclosed that the municipality expended \$180.00 during 2011 from the Liquid Fuels Tax Fund for CDL drug testing.

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance, and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including CDL drug testing, are outside the scope of permissible expenditures.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations as noted above could result in the municipality having to reimburse \$180.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$180.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

Management's Response

The secretary/treasurer stated:

We contacted municipal services about the responsibility of paying for CDL testing and were informed that Liquid Fuels Tax Funds were to be used for payment of them.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

Finding No. 3 - Nonpermissible Expenditure (Continued)

Auditor's Conclusion

CDL drug testing is not permitted to be paid from the Liquid Fuels Tax Fund. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

Comment - Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination findings to determine if the municipality should reimburse \$19,436.06 to its Liquid Fuels Tax Fund. This amount consists of \$10,841.06 for purchases over \$10,000.00 in noncompliance with advertising and bidding requirements and \$8,595.00 for documentation for price quotations that was not available for examination. A finding for purchases over \$10,000.00 in noncompliance with advertising and bidding requirements was also written in our current report (Finding No. 1).

During our current examination we reviewed a letter dated September 20, 2010, from the Department of Transportation informing the municipality to reimburse \$19,436.06 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on November 4, 2010.

In our prior report we also recommended:

- That the municipality ensure that its Forms MS-965 are complete and accurate.
- That the municipality comply with *The Second Class Township Code* and Department of Transportation's *Publication 9* by obtaining price quotations for all purchases between \$4,000.00 and \$10,000.00.

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

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

An exit conference was held April 23, 2012. Those participating were:

TOWNSHIP OF OSWAYO

Ms. Jane K. Rice, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Christopher Heglen, Auditor

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

TOWNSHIP OF OSWAYO
POTTER COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE THREE YEARS ENDED
DECEMBER 31, 2011

This report was initially distributed to:

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

Township of Oswayo
Potter County
2244 Eleven Mile Road
Shinglehouse, PA 16748

The Honorable Gerald Weber

Chairman of the Board of Supervisors

Ms. Jane K. Rice

Secretary/Treasurer

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at www.auditorgen.state.pa.us.