

ATTESTATION ENGAGEMENT

Township of Upper Darby
Delaware County, Pennsylvania
23-111
Liquid Fuels Tax Fund
For the Period
January 1, 2013 to December 31, 2016

May 2018



Commonwealth of Pennsylvania
Department of the Auditor General
Eugene A. DePasquale • Auditor General



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Department of the Auditor General
Harrisburg, PA 17120-0018
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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 Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Upper Darby, Delaware County, for the period January 1, 2013 to December 31, 2016. The municipality's management is responsible for presenting the Forms MS-965 in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination 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 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 the Findings And Recommendations section of this report:

- The municipality expended Liquid Fuels Tax Fund money of \$89,168.00, \$394,048.00, and \$78,407.65 on construction projects No. 13-23111-001, No.15-23111-001, and No. 16-2311-001, respectively. However, the municipality was not approved to use Liquid Fuels Tax Fund money to pay for these projects. On October 5, 2015, the municipality reimbursed \$394,048.00, and on December 8, 2016, the municipality reimbursed \$78,407.65 to the Liquid Fuels Tax Fund, leaving a balance due the Liquid Fuels Tax Fund of \$89,168.00 (see Finding No. 2).
- The township expended \$21,874.44 during 2015 from its Liquid Fuels Tax Fund for the purchase of cold patch without advertising for bids (see Finding No. 3).
- The township expended \$14,920.13 during 2016 from the Liquid Fuels Tax Fund for the purchase of cold patch. However, documentation for price quotations was not available for examination see (Finding No. 4).

In our opinion, except for the bulleted matters discussed above, 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 Upper Darby, Delaware County, for the period January 1, 2013 to December 31, 2016, in accordance 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 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 the internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

Our consideration of internal control 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 was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

Independent Auditor's Report (Continued)

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 a 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. We consider the deficiency below to be a material weakness:

- Failure To Properly Prepare MS-965 - Recurring.

As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of the Township of Upper Darby, Delaware 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*:

- Liquid Fuels Money Improperly Expended On Projects.
- Noncompliance With Advertising And Bidding Requirements.
- Documentation Of Price Quotation Not Available For Examination.

The fourth examination finding contained in this report cites a condition that existed in the operation of the municipality during the previous two engagement periods and was not corrected during the current examination period. The municipality should strive to comply with the recommendations noted in this report.

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 Township of Upper Darby, Delaware 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.



Eugene A. DePasquale
Auditor General

March 26, 2018

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TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, (72 P.S. § 2615.5 et sec.), 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 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.

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

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.

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2013 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	5,799.30	-	5,799.30
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	245,364.03	-	245,364.03
Winter maintenance services	170,482.93	-	170,482.93
Traffic control devices	278,779.59	(864.63)	277,914.96
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	762,358.90	-	762,358.90
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 1,462,784.75</u>	 <u>\$ (864.63)</u>	 <u>\$ 1,461,920.12</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2013 FORM MS-965 – SECTION 2
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2013	\$ 72,708.72	\$ 100,057.81	\$ 172,766.53
Receipts:			
2. State allocation	1,325,763.25	-	1,325,763.25
2a. Turnback allocation	6,160.00	-	6,160.00
2b. Interest on investments (Note 3)	403.73	100.75	504.48
2c. Miscellaneous	100,000.00	(100,000.00)	-
3. Total receipts	<u>1,432,326.98</u>	<u>(99,899.25)</u>	<u>1,332,427.73</u>
4. Total funds available	<u>1,505,035.70</u>	<u>158.56</u>	<u>1,505,194.26</u>
5. Expenditures (Section 1)	<u>1,462,784.75</u>	<u>(864.63)</u>	<u>1,461,920.12</u>
6. Balance, December 31, 2013	<u>\$ 42,250.95</u>	<u>\$ 1,023.19</u>	<u>\$ 43,274.14</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2013 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No.1)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 72,708.72	\$ 100,057.81	\$ 172,766.53
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	266,384.65	-	266,384.65
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	339,093.37	100,057.81	439,151.18
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>339,093.37</u>	<u>100,057.81</u>	<u>439,151.18</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 42,250.95</u>	<u>\$ 1,023.19</u>	<u>\$ 43,274.14</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2014 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Finding No.1)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	8,823.87	-	8,823.87
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	272,703.42	-	272,703.42
Winter maintenance services	369,241.69	-	369,241.69
Traffic control devices	295,413.85	-	295,413.85
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	665,131.64	3,895.59	669,027.23
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 1,611,314.47</u>	 <u>\$ 3,895.59</u>	 <u>\$ 1,615,210.06</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2014 FORM MS-965 – SECTION 2
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2014	\$ 42,250.95	\$ 1,023.19	\$ 43,274.14
Receipts:			
2. State allocation	1,429,069.73	-	1,429,069.73
2a. Turnback allocation	6,160.00	-	6,160.00
2b. Interest on investments (Note 3)	363.09	-	363.09
2c. Miscellaneous (Note 5)	149,395.32	-	149,395.32
3. Total receipts	<u>1,584,988.14</u>	<u>-</u>	<u>1,584,988.14</u>
4. Total funds available	<u>1,627,239.09</u>	<u>1,023.19</u>	<u>1,628,262.28</u>
5. Expenditures (Section 1)	<u>1,611,314.47</u>	<u>3,895.59</u>	<u>1,615,210.06</u>
6. Balance, December 31, 2014	<u>\$ 15,924.62</u>	<u>\$ (2,872.40)</u>	<u>\$ 13,052.22</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2014 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 42,250.95	\$ 1,023.19	\$ 43,274.14
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	287,045.95	-	287,045.95
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	329,296.90	1,023.19	330,320.09
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>329,296.90</u>	<u>1,023.19</u>	<u>330,320.09</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 15,924.62</u>	<u>\$ (2,872.40)</u>	<u>\$ 13,052.22</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2015 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	10,204.53	(6,338.95)	3,865.58
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	324,159.17	-	324,159.17
Winter maintenance services	205,949.91	-	205,949.91
Traffic control devices	259,707.84	-	259,707.84
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	785,859.08	10,216.86	796,075.94
Highway construction and rebuilding projects	-	394,048.00	394,048.00
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 1,585,880.53</u>	 <u>\$ 397,925.91</u>	 <u>\$ 1,983,806.44</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2015 FORM MS-965 – SECTION 2
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2015	\$ 15,924.62	\$ (2,872.40)	\$ 13,052.22
Receipts:			
2. State allocation	1,574,519.00	-	1,574,519.00
2a. Turnback allocation	6,160.00	-	6,160.00
2b. Interest on investments (Note 3)	375.20	-	375.20
2c. Miscellaneous (Note 5)	143,489.08	250,558.92	394,048.00
3. Total receipts	<u>1,724,543.28</u>	<u>250,558.92</u>	<u>1,975,102.20</u>
4. Total funds available	<u>1,740,467.90</u>	<u>247,686.52</u>	<u>1,988,154.42</u>
5. Expenditures (Section 1)	<u>1,585,880.53</u>	<u>397,925.91</u>	<u>1,983,806.44</u>
6. Balance, December 31, 2015	<u>\$ 154,587.37</u>	<u>\$ (150,239.39)</u>	<u>\$ 4,347.98</u>

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

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
2015 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 15,924.62	\$ (2,872.40)	\$ 13,052.22
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	316,135.80	-	316,135.80
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	332,060.42	(2,872.40)	329,188.02
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>332,060.42</u>	<u>(2,872.40)</u>	<u>329,188.02</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 154,587.37</u>	<u>\$ (150,239.39)</u>	<u>\$ 4,347.98</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2016 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	11,447.79	-	11,447.79
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	335,568.24	-	335,568.24
Winter maintenance services	533,500.96	1,039.29	534,540.25
Traffic control devices	310,342.47	-	310,342.47
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	666,485.13	-	666,485.13
Highway construction and rebuilding projects	-	78,407.65	78,407.65
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 1,857,344.59</u>	 <u>\$ 79,446.94</u>	 <u>\$ 1,936,791.53</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2016 FORM MS-965 – SECTION 2
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2016	\$ 154,587.37	\$ (150,239.39)	\$ 4,347.98
Receipts:			
2. State allocation	1,838,673.37	-	1,838,673.37
2a. Turnback allocation	6,160.00	-	6,160.00
2b. Interest on investments (Note 3)	486.80	-	486.80
2c. Miscellaneous (Note 4)	-	128,407.65	128,407.65
3. Total receipts	<u>1,845,320.17</u>	<u>128,407.65</u>	<u>1,973,727.82</u>
4. Total funds available	<u>1,999,907.54</u>	<u>(21,831.74)</u>	<u>1,978,075.80</u>
5. Expenditures (Section 1)	<u>1,857,344.59</u>	<u>79,446.94</u>	<u>1,936,791.53</u>
6. Balance, December 31, 2016	<u><u>\$ 142,562.95</u></u>	<u><u>\$ (101,278.68)</u></u>	<u><u>\$ 41,284.27</u></u>

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

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
2016 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Finding No. 1)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 154,587.37	\$ (150,239.39)	\$ 4,347.98
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	368,966.67	-	368,966.67
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	523,554.04	(150,239.39)	373,314.65
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>523,554.04</u>	<u>(150,239.39)</u>	<u>373,314.65</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 142,562.95</u>	<u>\$ (101,278.68)</u>	<u>\$ 41,284.27</u>

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

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS
 FOR THE PERIOD
 JANUARY 1, 2013 TO DECEMBER 31, 2016

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:

2012	2013	2014	2015/2016
\$10,000.00	\$10,200.00	\$10,300.00	\$10,500.00

- 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:

2012	2013	2014	2015/2016
\$10,000.00	\$10,200.00	\$10,300.00	\$10,500.00

- 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 is available from the Department of Transportation in March of each year since 2014. For 2013 and earlier years, the state allocation was available in April 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 since 2014 from the Department of Transportation. For 2013 and earlier years, turnback allocations were available in April of each year. Turnback allocations are based on the mileage of the roads transferred.

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

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.

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

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 First Class Township Code, Title 53 P.S. § 56705.1, 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.

TOWNSHIP OF UPPER DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS
 FOR THE PERIOD
 JANUARY 1, 2013 TO DECEMBER 31, 2016

2. Deposits (Continued)

There were no deposits exposed to custodial credit risk as of December 31, 2016. Custodial credit risk, as defined by GASB No. 40, as amended, 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 as of December 31, 2016, consists of the following:

Cash	\$41,284.27
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3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$504.48 during 2013, \$363.09 during 2014, \$375.20 during 2015, and, \$486.80 during 2016 thus providing additional funds for road maintenance and repairs.

4. Miscellaneous Receipts

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

Source	Description	2014	2015	2016
General Fund	Grants to cover expenses	149,395.32	\$ -	\$ 50,000.00
General Fund	Reimbursement for project expense (Finding No. 1)	-	394,048.00	78,407.65
Total		\$149,395.32	\$394,048.00	\$128,407.65

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 1 - Failure To Properly Prepare Forms MS-965 - Recurring

We cited the municipality for failure to properly prepare Forms MS-965 in our prior two reports with the most recent being for the period January 1, 2010 to December 31, 2012. Our current examination disclosed that there were numerous errors made in the preparation of the municipality's 2013 through 2016 Forms MS-965. These errors resulted in the following adjustments:

2013 - Section 1

- An adjustment of \$(864.63) was made to "Traffic control devices" in 2013 because these expenditures were overstated.

2013 – Section 2

- An adjustment of \$100,057.81 was made to "Balance, January 1, 2013" because of prior report adjustments that were not carried forward in the fund balance.
- An adjustment of \$100.75 was made to "Interest on investments" because interest earned was understated.
- An adjustment of \$(100,000.00) was made to "Miscellaneous" because there were no miscellaneous receipts.

2013 – Section 3

- An adjustment of \$100,057.81 was made to "Prior year equipment balance" because prior report adjustments were not carried forward in the equipment balance.

2014 – Section 1

- An adjustment of \$3,895.59 was made to "Maintenance and repair of roads and bridges" in 2014 because these expenditures were understated.

2014 – Section 2

- An adjustment of \$1,023.19 was made to "Balance, January 1, 2014" to reflect the adjustment made to the fund balance in 2013 - Section 2.

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 1 - Failure To Properly Prepare Forms MS-965 - Recurring (Continued)

2014 – Section 3

- An adjustment of \$1,023.19 was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance 2013 - Section 3.

2015 – Section 1

- An adjustment of \$(6,338.95) was made to “Minor equipment purchases” because these expenditures were overstated.
- An adjustment of \$10,216.86 was made to “Maintenance and repair of roads and bridges” in 2015 because these expenditures were understated.
- An adjustment of \$394,048.00 was made to “Highway construction and rebuilding projects” in 2015 because check Nos. 6016 for \$215,712.00 and 6017 for \$178,336.00 were not reported.

2015 – Section 2

- An adjustment of \$(2,872.40) was made to “Balance, January 1, 2015” to reflect the adjustment made to the fund balance in 2014 - Section 2.
- An adjustment of \$250,558.92 was made to “Miscellaneous” in 2015 because these receipts were understated.

2015 – Section 3

- An adjustment of \$(2,872.40) was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2014 - Section 3.

2016 – Section 1

- An adjustment of \$1,039.29 was made to “Winter maintenance services” because these expenditures were understated.
- An adjustment of \$78,407.65 was made to “Highway construction and rebuilding projects” because check No. 6106 was not reported.

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 1 - Failure To Properly Prepare Forms MS-965 - Recurring (Continued)

2016 – Section 2

- An adjustment of \$(150,239.39) was made to “Balance, January 1, 2016” to reflect the adjustment made to the fund balance in 2015 - Section 2.
- An adjustment of \$128,407.65 was made to “Miscellaneous” because these receipts were understated.

2016 – Section 3

- An adjustment of \$(150,239.39) was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2015 - Section 3.

Good internal controls ensure that the municipality complete its Forms MS-965 accurately and completely. The failure to properly complete Forms MS-965 increases the risk that errors or misappropriations may occur and remain undetected.

Recommendation

We recommend that the municipality ensure that its Forms MS-965 are complete and accurate.

Management’s Response

The finance director stated:

The MS-965 reports used by the auditor do not match the reports the municipality have on file.

Auditor’s Conclusion

The Forms MS-965 that were used to conduct the examination were the forms provided to us by the Department of Transportation. During our next examination we will determine if the township complied with our recommendation.

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 2 - Liquid Fuels Money Improperly Expended On Projects

Our examination disclosed that the municipality expended Liquid Fuels Tax Fund money of \$89,168.00, \$394,048.00, and \$78,407.65 on construction projects No. 13-23111-001, No.15-23111-001, and No. 16-2311-001, respectively. However, the municipality was not approved to use Liquid Fuels Tax Fund money to pay for these projects. The expenditures related to these projects should have been paid directly from the General Fund.

The Department of Transportation's *Publication 9* outlines the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter Two, Section 2.7.2, states that nonpermissible expenditures include construction and reconstruction projects without prior approval from the Department of Transportation.

On October 5, 2015, the municipality reimbursed \$394,048.00, and on December 8, 2016, the municipality reimbursed \$78,407.65 to the Liquid Fuels Tax Fund.

The failure to comply with the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$89,168.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$89,168.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, no liquid fuels tax funds be expended for construction projects without the prior approval of the Department of Transportation.

Management's Response

The finance director stated:

Although \$561,623.65 was spent from the Liquid Fuels Fund, \$472,455.65 was reimbursed to the Liquid Fuels Fund (\$394,048.00 in 2015, \$78,407.65 in 2016). The remaining balance of \$89,168.00 from 2013 are the County Aid funds which need to be reimbursed.

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 2 - Liquid Fuels Money Improperly Expended On Projects (Continued)

Auditor's Conclusion

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

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 3 - Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the township expended \$21,874.44 during 2015 from the Liquid Fuels Tax Fund for the purchase of cold patch without advertising for bids.

The above expenditures were not made in compliance with the advertising, bidding, and contract requirements of *The First Class Township Code*, 53 P.S. § 56802(a), (also found at § 1802(a) of *The First Class Township Code* as published by the Local Government Commission), which requires that purchases over \$18,500.00 during 2012 must be advertised, bid, and awarded by contract. The bidding threshold increased to purchases over \$19,400.00 for 2015 and 2016, \$19,700 for 2017, and \$20,100.00 for 2018. *The First Class Township Code*, 53 P.S. § 56803, (also found at § 1802.1 of *The First 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.

The failure to comply with *The First Class Township Code* could result in the township having to reimburse \$21,874.44 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$21,874.44 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 First Class Township Code* as noted in this finding.

Management's Response

The finance director stated:

I need to consult with public works director to determine the circumstances surrounding the expenditures. He was unavailable during the exit conference.

Auditor's Conclusion

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

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 4 - Documentation For Price Quotations Was Not Available For Examination

Our examination disclosed that the township expended \$14,920.13 during 2016 from the Liquid Fuels Tax Fund for the purchase of cold patch. The township was required to obtain the three written or telephonic quotations for these expenditures. However, documentation for price quotations were not available for examination.

The above expenditures were not made in compliance with the contract requirements of *The First Class Township Code*, 53 P.S. § 56802(a.1), (also found at § 1802(a.1) of *The First Class Township Code* as published by the Local Government Commission), which states, in part:

Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts during 2012 that exceed ten thousand three hundred dollars (\$10,000.00) but are less than the amount [in excess of \$18,500.00] requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

The thresholds for obtaining price quotations increased to purchases between \$10,500.00 and \$19,400.00 for 2015 and 2016, \$10,700.00 and \$19,700.00 for 2017, and \$10,900.00 and \$20,100.00 for 2018.

The failure to comply with *The First Class Township Code* could result in the township having to reimburse \$14,920.13 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$14,920.13 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 First Class Township Code* as noted in this finding.

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 4 - Documentation For Price Quotations Was Not Available For Examination
(Continued)

Management's Response

The finance director stated:

I need to consult with public works director to determine the circumstances surrounding the expenditures. He was unavailable during the exit conference.

Auditor's Conclusion

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

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

An exit conference was held February 26, 2018. Those participating were:

TOWNSHIP OF UPPER DARBY

Mr. James Smith, Finance Director

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Vince Gillen, Auditor

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

TOWNSHIP OF UPPER DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

This report was initially distributed to:

The Honorable Leslie Richards
Secretary
Department of Transportation

Township of Upper Darby
Delaware County
100 Garrett Road
Upper Darby, PA 19082

The Honorable Donald P. Bonnett
President of Council

Mr. James Smith
Finance Director

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.