



TOWNSHIP OF LIBERTY
ADAMS COUNTY
01-213

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL





Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
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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 Liberty, Adams County, for the period January 1, 2011 to December 31, 2012. The municipality's management is responsible for the Forms MS-965. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

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

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

Independent Auditor's Report (Continued)

As discussed in Finding No. 3, the township made a down payment of \$9,000.00 during 2011 and paid principal and interest of \$7,268.30 and \$1,852,86, respectively, from its Liquid Fuels Tax Fund for the purchase of a 2007 backhoe/loader from the COSTARS contract. However, used equipment is not eligible to be purchased from the contract.

In our opinion, except for the matter 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 Liberty, Adams County, for the period January 1, 2011 to December 31, 2012, in conformity with the criteria set forth in Note 1.

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

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Township of Liberty, Adams 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 Liberty, Adams County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Liberty, Adams County's internal control. We consider the deficiency described in the finding below to be a significant deficiency in internal control over reporting on the Forms MS-965:

- Untimely Deposit Of Allocations.

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 Liberty, Adams County's internal control. Our consideration of the internal control over reporting on the Forms MS-965 would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we consider that the significant deficiency described above is not a material weakness.

Independent Auditor's Report (Continued)

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

- Liquid Fuels Money Deposited Into The General Fund.
- Purchase Of Used Equipment From The COSTAS Contract.

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



July 31, 2013

EUGENE A. DEPASQUALE
Auditor General

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TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Background

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

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

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

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

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

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

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

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 9,000.00	\$ -	\$ 9,000.00
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	3,556.08	-	3,556.08
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	14,188.87	-	14,188.87
Highway construction and rebuilding projects	23,595.91	-	23,595.91
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 50,340.86</u>	 <u>\$ -</u>	 <u>\$ 50,340.86</u>

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

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

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2011	\$ 1,196.22	\$ -	\$ 1,196.22
Receipts:			
2. State allocation	50,422.83	-	50,422.83
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	23.27	-	23.27
2c. Miscellaneous	-	-	-
3. Total receipts	<u>50,446.10</u>	<u>-</u>	<u>50,446.10</u>
4. Total funds available	<u>51,642.32</u>	<u>-</u>	<u>51,642.32</u>
5. Expenditures (Section 1)	<u>50,340.86</u>	<u>-</u>	<u>50,340.86</u>
6. Balance, December 31, 2011	<u><u>\$ 1,301.46</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 1,301.46</u></u>

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

TOWNSHIP OF LIBERTY
ADAMS 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	\$ -	\$ -	\$ -
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	10,084.57	-	10,084.57
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	10,084.57	-	10,084.57
5. Less: Major equipment expenditures	<u>9,000.00</u>	<u>-</u>	<u>9,000.00</u>
6. Remainder	<u>1,084.57</u>	<u>-</u>	<u>1,084.57</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 1,084.57</u>	<u>\$ -</u>	<u>\$ 1,084.57</u>

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

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
2012 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 9,121.16	\$ -	\$ 9,121.16
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	10,000.00	-	10,000.00
Highway construction and rebuilding projects	23,595.91	-	23,595.91
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 42,717.07</u>	<u>\$ -</u>	<u>\$ 42,717.07</u>

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

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
2012 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2012	\$ 1,301.46	\$ -	\$ 1,301.46
Receipts:			
2. State allocation	53,823.07	-	53,823.07
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	6.10	-	6.10
2c. Miscellaneous (Comment)	663.87	-	663.87
3. Total receipts	<u>54,493.04</u>	<u>-</u>	<u>54,493.04</u>
4. Total funds available	<u>55,794.50</u>	<u>-</u>	<u>55,794.50</u>
5. Expenditures (Section 1)	<u>42,717.07</u>	<u>-</u>	<u>42,717.07</u>
6. Balance, December 31, 2012	<u><u>\$ 13,077.43</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 13,077.43</u></u>

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

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
2012 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	\$ 1,084.57	\$ -	\$ 1,084.57
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	10,764.61	-	10,764.61
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	11,849.18	-	11,849.18
5. Less: Major equipment expenditures	9,121.16	-	9,121.16
6. Remainder	<u>2,728.02</u>	<u>-</u>	<u>2,728.02</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 2,728.02</u>	<u>\$ -</u>	<u>\$ 2,728.02</u>

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

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

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

Section 2

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

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

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

1. Criteria (Continued)

Section 3

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

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

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

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

Basis Of Presentation

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

Basis Of Accounting

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

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

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

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

2. Deposits (Continued)

Fund Balance

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

Cash	\$13,077.43
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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 \$23.27 during 2011, and \$6.10 during 2012, thus providing additional funds for road maintenance and repairs.

4. Bank Loan

On November 23, 2005, the municipality borrowed \$200,000.00 from the Pennsylvania Infrastructure Bank for the rehabilitation, resurfacing, and safety improvements to Steelman Marker and Bullfrog Roads in Liberty Township. The term of the loan was for ten years at an interest rate of 3.125 percent. Principal and interest payments of \$23,595.91 are due annually. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$92,322.21 and \$25,657.34, respectively.

During the current examination period the municipality paid principal of \$41,094.18 and interest of \$6,097.64 from the Liquid Fuels Tax Fund. These amounts are reflected in highway construction and rebuilding projects on the 2011 and 2012 Forms MS-965 - Section 1. The outstanding balance of the loan as of December 31, 2012 was \$66,583.61, plus interest.

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

5. Lease-Purchase Agreement

On February 25, 2011, the municipality entered into a lease-purchase agreement with John Deere Credit Corporation to purchase a backhoe/loader for \$49,880.00. The municipality made down payments of \$9,000.00 from the Liquid Fuels Tax Fund and \$1,000.00 from the General Fund, leaving a balance of \$39,880.00 to be financed. The agreement was for a term of five years at an interest rate of 4.55 percent. Principal and interest payments of \$9,121.16 are due annually. Liquid Fuels Tax Fund money is not eligible to be used for this purchase because the backhoe/loader was not properly bid (see Finding No. 3).

During the current examination period the municipality paid principal of \$7,268.30 and interest of \$1,852.86 from the Liquid Fuels Tax Fund. These amounts and the down payment are reflected in major equipment purchases on the 2011 and 2012 Forms MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2012 was \$32,611.70, plus interest.

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

Finding No. 1 - Untimely Deposit Of Allocation

Our examination disclosed that the 2012 Liquid Fuels Tax Fund allocation of \$53,823.07, which was received on April 30, 2012, was not deposited into the Liquid Fuels Tax Fund until June 20, 2012.

Good internal control procedures require that all funds received be deposited immediately upon receipt. The failure to do so increases the risk that errors and misappropriations may occur and remain undetected. Additionally, had the allocations been deposited in a timely manner, money may have been available for investment, potentially earning interest income which could have been used for road maintenance and repairs.

Recommendations

We recommend that, in the future, the municipality deposit all allocations immediately upon receipt.

In addition, the municipal officials should consider using the electronic transfer of funds offered by the Department of Transportation.

Management's Response

The municipal officials stated:

We understand a mistake was made and it has been corrected so it will not happen in the future.

Auditor's Conclusion

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

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

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

Our examination disclosed that the municipality deposited its 2011 Liquid Fuels Tax Fund allocation of \$50,422.83 into the General Fund on April 1, 2011, which is in noncompliance with the Liquid Fuels Tax Municipal Allocation Law.

On April 29, 2011 and July 28, 2011 the municipality transferred \$10,544.33 and \$39,898.77 from its General Fund to its Liquid Fuels Tax Fund. These totals also include interest of \$20.27.

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.

A similar finding was also written in our prior report. However, we noted that during 2012 the municipality deposited its Liquid Fuels Tax Fund allocation of \$53,823.07 directly into the Liquid Fuels Tax Fund account.

Recommendation

We recommend that, in the future, the municipality continue to deposit all liquid fuels tax money promptly into the Liquid Fuels Tax Fund.

Management's Response

The municipal officials stated:

This error has since been corrected.

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

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 continues to comply with our recommendation.

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

Finding No. 3 - Purchase Of Used Equipment From The COSTARS Contract

Our examination disclosed that on February 25, 2011, the municipality entered into a lease-purchase agreement to purchase a 2007 John Deere loader/backhoe for \$49,880.00 (see Note 6). The township made a down payment of \$9,000.00 during 2011 and paid principal and interest of \$7,268.30 and \$1,852.86, respectively, during 2012 from the Liquid Fuels Tax Fund for this purchase. The backhoe/loader was purchased through a COSTARS contract. COSTARS is a program run by the Department of General Services that permits municipalities to purchase from state contacts. The backhoe/loader was four years old. However, only new and/or remanufactured equipment is eligible to be purchased from COSTARS contracts. Therefore, the payments for the backhoe/loader were not eligible to be paid from the Liquid Fuels Tax Fund.

The above expenditure was not made in compliance with the contractor's terms and conditions of COSTARS section I.13 IFB.1 New Equipment (Nov 2006), which states:

Unless otherwise specified in this invitation for bids, all products offered by bidders must be new or remanufactured. A "new" product is one that will be used first by the Commonwealth after it is manufactured or produced. A "remanufactured" product is one which: 1) has been rebuilt, using new or used parts, to a condition which meets the original manufacturer's most recent specifications for the item: 2) does not, in the opinion of the issuing Office, differ in appearance from a new item: and 3) has the same warranty as a new item. Unless otherwise specified in this invitation for bids, used or reconditioned products are not acceptable. This clause shall not be construed to prohibit bidders from offering products with recycled content, provided the product is new or remanufactured.

Because the municipality did not purchase a new product, 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 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 LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 3 - Purchase Of Used Equipment From The COSTARS Contract (Continued)

The failure to comply with the terms and conditions of the COSTARS contract and *The Second Class Township Code* could result in the township having to reimburse \$18,121.16 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$18,121.16 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 terms and conditions of the COSTARS contract and *The Second Class Township Code* as noted in this finding. The thresholds for advertising and bidding were increased to purchases over \$18,500.00 during 2012, \$18,900.00 during 2013, and \$19,100.00 during 2014.

Management's Response

The township officials stated:

We were not aware bidding was needed on state contracts.

Auditor's Conclusion

Only new equipment may be purchased from the COSTARS contract. The backhoe/loader was used. Therefore, it was not eligible to be purchased through the COSTARS program. The township was required by *The Second Class Township Code* to advertise for bid and did not do so. During our next examination we will determine if the municipality complied with our recommendations.

TOWNSHIP OF LIBERTY
ADAMS COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Comment - Summary Of Prior Audit Recommendations

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$663.87 to its Liquid Fuels Tax Fund for an overexpenditure of its equipment purchase tally.

During our current examination we reviewed a letter dated January 20, 2012, from the Department of Transportation informing the municipality to reimburse \$663.87 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on January 26, 2012.

In our prior report we also recommended:

- That the municipality comply with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in April.
- That the municipality only expend up to the approved amount on equipment expenditures in accordance with the Department of Transportation's *Publication 9*.

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

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

An exit conference was held July 31, 2013. Those participating were:

TOWNSHIP OF LIBERTY

Ms. LeeEsta Shaffer, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Ryan W. Shrauder, Auditor

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

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

This report was initially distributed to:

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

Township of Liberty
Adams County
39 Topper Road
Fairfield, PA 17320

The Honorable John Bostek

Chairman of the Board of Supervisors

Ms. LeeEsta Shaffer

Secretary/Treasurer

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