

ATTESTATION ENGAGEMENT

Township of Ulysses
Potter County, Pennsylvania
52-223
Liquid Fuels Tax Fund
For the Period
January 1, 2011 to December 31, 2012

August 2014



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



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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 Ulysses, Potter 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 Ulysses, Potter 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*.

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 and Comment section of this report:

- The municipality expended \$25,600.98 from its Liquid Fuels Tax Fund on May 23, 2011 for a lease-purchase payment on a truck that was improperly bid (Finding No. 1).
- The municipality expended \$17,175.69 during 2011 from its Liquid Fuels Tax Fund for the purchase of diesel fuel without advertising for bids (Finding No. 2).
- The municipality expended \$13,786.35 from its Liquid Fuels Tax Fund during 2012 for the purchase of diesel fuel. However, documentation for price quotations was not available for examination (Finding No. 3).
- The municipality expended \$4,715.94 in excess of the amount available for equipment for the year ending December 31, 2011 (Finding No. 4).
- The municipality expended \$2,000.00 during 2012 from its Liquid Fuels Tax Fund for the rental of a roller from a business owned by a supervisor's son (Finding No. 5).
- During our prior examination period the municipality expended \$25,600.98 from its Liquid Fuels Tax Fund for a truck that was improperly bid. As of the date of this report, this amount had not been reimbursed to the Liquid Fuels Tax Fund (Comment).

In our opinion, except for the bulleted items 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 Ulysses, Potter County, for the period January 1, 2011 to December 31, 2012, in conformity with the criteria set forth in Note 1.

Independent Auditor's Report (Continued)

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 Ulysses, 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 Ulysses, Potter County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Ulysses, Potter County's internal control.

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 Ulysses, 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.

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*:

- Improper Bidding Procedures.
- Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements.
- Documentation Of Price Quotations Not Available For Examination.
- Over Eexpended Equipment Purchase Tally.
- Related Party Transaction.

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



February 24, 2014

Eugene A. DePasquale
Auditor General

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TOWNSHIP OF ULYSSES
POTTER 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 ULYSSES
POTTER 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	\$ 25,600.98	\$ -	\$ 25,600.98
Minor equipment purchases	185.67	-	185.67
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	19,468.06	-	19,468.06
Maintenance and repair of roads and bridges	31,966.32	-	31,966.32
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 77,221.03</u>	<u>\$ -</u>	<u>\$ 77,221.03</u>

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

TOWNSHIP OF ULYSSES
 POTTER 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	\$ 62,883.55	\$ -	\$ 62,883.55
Receipts:			
2. State allocation	59,907.54	-	59,907.54
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	234.89	-	234.89
2c. Miscellaneous	-	-	-
3. Total receipts	<u>60,142.43</u>	<u>-</u>	<u>60,142.43</u>
4. Total funds available	<u>123,025.98</u>	<u>-</u>	<u>123,025.98</u>
5. Expenditures (Section 1)	<u>77,221.03</u>	<u>-</u>	<u>77,221.03</u>
6. Balance, December 31, 2011	<u><u>\$ 45,804.95</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 45,804.95</u></u>

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

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

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 18,803.53	\$ (9,900.00)	\$ 8,903.53
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	11,981.51	-	11,981.51
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	30,785.04	(9,900.00)	20,885.04
5. Less: Major equipment expenditures	25,600.98	-	25,600.98
6. Remainder	<u>5,184.06</u>	<u>(9,900.00)</u>	<u>(4,715.94)</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 5,184.06</u>	<u>\$ (5,184.06)</u>	<u>\$ -</u>

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

TOWNSHIP OF ULYSSES
POTTER 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	\$ -	\$ -	\$ -
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	21,813.96	-	21,813.96
Maintenance and repair of roads and bridges	37,828.37	-	37,828.37
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Bank service charges)	47.00	-	47.00
 Total (To Section 2, Line 5)	 <u>\$ 59,689.33</u>	 <u>\$ -</u>	 <u>\$ 59,689.33</u>

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

TOWNSHIP OF ULYSSES
POTTER 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	\$ 45,804.95	\$ -	\$ 45,804.95
Receipts:			
2. State allocation	60,052.26	-	60,052.26
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	146.14	-	146.14
2c. Miscellaneous (Grant from General Fund)	<u>10,000.00</u>	<u>-</u>	<u>10,000.00</u>
3. Total receipts	<u>70,198.40</u>	<u>-</u>	<u>70,198.40</u>
4. Total funds available	<u>116,003.35</u>	<u>-</u>	<u>116,003.35</u>
5. Expenditures (Section 1)	<u>59,689.33</u>	<u>-</u>	<u>59,689.33</u>
6. Balance, December 31, 2012	<u><u>\$ 56,314.02</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 56,314.02</u></u>

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

TOWNSHIP OF ULYSSES
POTTER COUNTY
LIQUID FUELS TAX FUND
2012 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 5,184.06	\$ (5,184.06)	\$ -
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	12,010.45	-	12,010.45
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	17,194.51	(5,184.06)	12,010.45
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>17,194.51</u>	<u>(5,184.06)</u>	<u>12,010.45</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 17,194.51</u>	<u>\$ (5,184.06)</u>	<u>\$ 12,010.45</u>

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

TOWNSHIP OF ULYSSES
POTTER 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 ULYSSES
POTTER 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 ULYSSES
POTTER 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 ULYSSES
POTTER 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	\$22,491.07
Certificates of deposit	<u>33,822.95</u>
Total	<u><u>\$56,314.02</u></u>

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account and certificates of deposit which earned \$234.89 during 2011, and \$146.14 during 2012, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2011 - Section 3

An adjustment of \$(9,900.00) was made to "Prior year equipment balance" because prior report adjustments were not carried forward in the equipment balance.

2012 - Section 3

An adjustment of \$(5,184.06) was made to "Prior year equipment balance" to reflect the adjustment made to the equipment balance in 2011 - Section 3.

TOWNSHIP OF ULYSSES
POTTER 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 June 2, 2010, the municipality entered into a lease-purchase agreement with Daimler Truck Financial to purchase a 2010 Freightliner Model M2 4x4 truck for \$119,080.00. The agreement was for a term of five years at an interest rate of 3.75 percent. Principal and interest payments of \$25,600.98 are due annually. Because the township did not properly bid for the truck, the payments are not eligible to be paid from the Liquid Fuels Tax Fund. Prior years' principal payment from the Liquid Fuels Tax Fund was \$25,600.98.

During the current examination period the municipality paid principal of \$22,095.52 and interest of \$3,505.46 from the Liquid Fuels Tax Fund (Finding No.1). These amounts are reflected in major equipment purchases on the 2011 Form MS-965 - Section 1. Additionally, the municipality paid principal of \$22,924.10 and interest of \$2,676.88 from the General Fund. The outstanding balance of the lease-purchase agreement as of December 31, 2012 was \$48,459.40, plus interest.

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

Finding No. 1 - Improper Bidding Procedures

Our prior examination for the period January 1, 2009 to December 31, 2010 disclosed that on February 10, 2010, the township approved a motion to lease a 2010 Freightliner Model M2 4x4 truck. The township purchased the truck on March 20, 2010 according to an invoice signed by both the township and the vendor. Subsequent to the purchase, the township advertised for bids for the purchase of the truck. Bids were opened on May 3, 2010. The bids were:

Vendor A	\$119,080.00
Vendor B	\$128,162.87
Vendor C	\$153,865.82.

The township accepted the low bid from Vendor A. Vendor A was the vendor with whom the township signed the invoice on March 20, 2010 for the purchase of the truck. On May 23, 2011, during the current examination period, the municipality expended \$25,600.98 from its Liquid Fuels Tax Fund for a lease-purchase payment for the truck (see Note 5).

Because the township agreed to the purchase before bidding for the truck, the above expenditure 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.

The failure to comply with *The Second Class Township Code* could result in the township having to reimburse \$25,600.98 to its Liquid Fuels Tax Fund.

We noted that the municipality paid the lease-purchase payment from its General Fund during 2012.

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

Finding No. 1 - Improper Bidding Procedures (Continued)

Recommendations

We recommend that the township reimburse \$25,600.98 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township to comply with *The Second Class Township Code* by advertising for bids before agreeing to purchase items over \$10,000.00. The threshold for advertising for bids increased to purchases over \$18,500.00 for 2012, \$18,900.00 for 2013, and \$19,100.00 for 2014.

Management's Response

The municipal officials stated:

Ulysses Township is working with PennDOT to correct the finding/situation.

Auditor's Conclusion

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

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

Finding No. 2 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the township expended \$17,175.69 during 2011 from the Liquid Fuels Tax Fund for the purchase of diesel fuel without advertising 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>
426215	11/16/10	945	01/10/11	\$ 585.75
Various	Various	953	01/31/11	1,479.91
Various	Various	960	03/07/11	1,823.72
Various	Various	965	03/15/11	3,697.92
Various	Various	972	04/27/11	2,179.91
10424228	05/10/11	988	06/14/11	938.96
Various	Various	992	07/13/11	1,496.53
10423914	07/17/11	1003	08/11/11	380.24
Various	Various	1015	09/20/11	1,461.90
431223	09/24/11	1020	10/24/11	1,001.00
10431075	10/24/11	1028	11/22/11	1,087.35
432073	11/15/11	1039	12/14/11	1,042.50
Total				\$17,175.69

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 ULYSSES
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 2 - 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 \$17,175.69 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$17,175.69 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* and the Department of Transportation's *Publication 9* as noted in this finding. The thresholds for advertising and bidding increased to \$18,500.00 in 2012, \$18,900.00 for 2013, and \$19,100.00 for 2014.

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

Finding No. 2 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements (Continued)

Management's Response

The township officials stated:

We will contact PennDOT about repaying this error.

Auditor's Conclusion

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

TOWNSHIP OF ULYSSES
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 3 - Documentation For Price Quotations Was Not Available For Examination

Our examination disclosed that the township expended \$13,786.35 during 2012 from the Liquid Fuels Tax Fund for the purchase of diesel fuel. The township was required to obtain three written or telephonic price quotations for these expenditures. However, documentation for price quotations was not available for examination. The diesel fuel purchases were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
Various	Various	1045	02/28/12	\$ 1,917.28
Various	Various	1061	03/14/12	1,910.29
440587	03/19/12	1072	05/01/12	347.00
Various	Various	1076	05/15/12	1,420.42
438901	05/12/12	1085	06/12/12	638.00
Various	Various	1091	07/10/12	891.63
Various	Various	1096	08/16/12	788.36
Various	Various	1101	09/18/12	754.64
508661	09/12/12	1104	10/11/12	1,722.53
Various	Various	1115	11/13/12	2,868.40
434186	11/28/12	1126	12/12/12	527.80
Total				<u><u>\$13,786.35</u></u>

The above expenditures were not made in compliance with the contract requirements of *The Second Class Township Code*, 53 P.S. § 68102(b), (also found at § 3102(b) of *The Second 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 that exceed four thousand dollars (\$4,000.00) but are less than the amount [in excess of \$10,000.00] 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.

TOWNSHIP OF ULYSSES
POTTER COUNTY
LIQUID FUELS TAX FUND
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Finding No. 3 - Documentation For Price Quotations Was Not Available For Examination
(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:

...For material estimates between \$4,000 and \$10,000, three telephone price quotes shall be obtained prior to the selection of a supplier. In lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations. If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000 or if the cost was between \$4,000 and \$10,000 and three price quotes were not obtained, 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 or be between \$4,000 and \$10,000 as specified above.

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 \$13,786.35 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$13,786.35 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We 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. The thresholds for obtaining price quotations increased to purchases between \$10,000.00 and \$18,500.00 in 2012, \$10,200.00 and \$18,900.00 for 2013 and \$10,300.00 and \$19,100.00 for 2014.

Management's Response

The township officials stated:

We will contact PennDOT about repaying this error.

TOWNSHIP OF ULYSSES
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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JANUARY 1, 2011 TO DECEMBER 31, 2012

Finding No. 3 - Documentation For Price Quotations Was Not Available For Examination
(Continued)

Auditor's Conclusion

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

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

Finding No. 4 – Over Expended Equipment Purchase Tally

Our examination disclosed that the municipality expended \$4,715.94 in excess of the amount available for the purchase of equipment for the year ending December 31, 2011, as follows:

	Actual
1. Prior year equipment balance	\$ 8,903.53
2. Current year equipment allocation (20% of Lines 2 + 2A, Section 2)	11,981.51
3. PENNDOT approved adjustments	-
4. Total funds available for equipment acquisition	20,885.04
5. Less: Major equipment purchases	25,600.98
6. Amount overexpended for equipment	\$ (4,715.94)

The Department of Transportation’s, *Publication 9*, Appendix D, Section 449.11, 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, 20 percent of the current year’s Liquid Fuels Tax Fund allocations, and any approved adjustments.

The failure to follow *Publication 9* could result in the municipality having to reimburse \$4,715.94 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$4,715.94 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality only expend up to the approved amount on equipment expenditures in accordance with the Department of Transportation’s *Publication 9*.

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

Finding No. 4 – Over Expended Equipment Purchase Tally (Continued)

Management's Response

The municipal officials stated:

We overexpended our equipment allotment due to Finding No. 1. We had a nonpermissible expenditure for a truck payment.

Auditor's Conclusion

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

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

Finding No. 5 - Related Party Transaction

Our examination disclosed that the township expended \$2,000.00 during 2012 from the Liquid Fuels Tax Fund for the rental of a roller. The company the roller was rented from was owned by a supervisor's son. Due to the supervisor's son's financial interest in the company and the lack of an open and public award process, this contract appears to violate *The Second Class Township Code* and The Public Official and Employee Ethics Act. Therefore, it should not have been entered into by the township.

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

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

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

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

Finding No. 5 - Related Party Transaction (Continued)

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

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

Because this contract violates *The Second Class Township Code* and the Ethics Act the township could be required by the Pennsylvania Department of Transportation to reimburse \$2,000.00 to its Liquid Fuels Tax Fund.

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

Recommendations

We recommend that the township reimburse \$2,000.00 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* and the Ethics Act.

Management’s Response

The township officials stated:

We will wait to hear from the state to alleviate this finding.

TOWNSHIP OF ULYSSES
POTTER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 5 - Related Party Transaction (Continued)

Auditor's Conclusion

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

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

Comment - Summary Of Prior Examination Recommendation

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the township should reimburse \$25,600.98 to its Liquid Fuels Tax Fund for a truck that was improperly bid. A similar finding was also written in our current report (see Finding No. 1).

During our current examination we reviewed a letter dated January 29, 2013 from the Department of Transportation informing the municipality to reimburse \$25,600.98 to its Liquid Fuels Tax Fund. As of the date of this report, the municipality had not reimbursed this amount to its Liquid Fuels Tax Fund.

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

An exit conference was held February 24, 2014. Those participating were:

TOWNSHIP OF ULYSSES

Mrs. Nancy Kosa, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Christopher Heglen, Auditor

Mr. Douglas M. Surra, Auditor

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

TOWNSHIP OF ULYSSES
POTTER 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

Mr. Robert P. Caruso
Executive Director
Pennsylvania State Ethics Commission

Township of Ulysses
Potter County
2256 SR 49 West
Ulysses, PA 16948

The Honorable Marc T. Bennett

Chairman of the Board of Supervisors

Mrs. Nancy Kosa

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.