### ATTESTATION ENGAGEMENT

### City of Pittston

Luzerne County, Pennsylvania 40-303

Liquid Fuels Tax Fund
For the Period
January 1, 2012 to December 31, 2013

August 2014



Commonwealth of Pennsylvania Department of the Auditor General

Eugene A. DePasquale • Auditor General



### Commonwealth of Pennsylvania Department of the Auditor General Harrisburg, PA 17120-0018 Facebook: Pennsylvania Auditor General Twitter: @PAAuditorGen

EUGENE A. DEPASQUALE AUDITOR GENERAL

Independent Auditor's Report

The Honorable Barry J. Schoch, P.E. Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the City of Pittston, Luzerne County, for the period January 1, 2012 to December 31, 2013. 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 City of Pittston, Luzerne County's Forms MS-965 for the period January 1, 2012 to December 31, 2013 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.

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

In our opinion, 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 City of Pittston, Luzerne County, for the period January 1, 2012 to December 31, 2013, 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 City of Pittston, Luzerne 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 City of Pittston, Luzerne County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the City of Pittston, Luzerne 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 City of Pittston, Luzerne 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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note an other matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

• Nonpermissible Expenditure.

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

March 17, 2014

Eugene A. DePasquale Auditor General

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# CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE PERIOD JANUARY 1, 2012 TO DECEMBER 31, 2013

### **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.

### CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND 2012 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

		<b>D</b> 1		Adjustments		Adjusted	
Expenditure Summary		Reported	(Note 4)		Amount		
Major equipment purchases	\$	17,443.71	\$	-	\$	17,443.71	
Minor equipment purchases		6,674.50		-		6,674.50	
Computer/Computer related training		-		-		-	
Agility projects		-		-		-	
Cleaning streets and gutters		-		-		-	
Winter maintenance services		11,005.09		-		11,005.09	
Traffic control devices		-		-		-	
Street lighting		-		-		-	
Storm sewers and drains		-		-		-	
Repairs of tools and machinery		-		-		-	
Maintenance and repair of							
roads and bridges		10,490.00		-		10,490.00	
Highway construction and							
rebuilding projects		164,675.55		-		164,675.55	
Miscellaneous		312,480.94		(312,480.94)		-	
Total (To Section 2, Line 5)	\$	522,769.79	\$	(312,480.94)	\$	210,288.85	

### CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND 2012 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	 Adjustments (Note 4)	Adjusted Amount
1. Balance, January 1, 2012	\$ 175,665.45	\$ -	\$ 175,665.45
Receipts: 2. State allocation	157,283.20	-	157,283.20
<ul><li>2a. Turnback allocation</li><li>2b. Interest on investments (Note 3)</li><li>2c. Miscellaneous</li></ul>	989.59 312,480.94	 (312,480.94)	989.59 -
3. Total receipts	 470,753.73	 (312,480.94)	 158,272.79
4. Total funds available	646,419.18	 (312,480.94)	333,938.24
5. Expenditures (Section 1)	522,769.79	 (312,480.94)	210,288.85
6. Balance, December 31, 2012	\$ 123,649.39	\$ 	\$ 123,649.39

### CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND 2012 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance		Reported	Adj	ustments	Adjusted Amount
1. Prior year equipment balance	\$	93,932.38	\$	-	\$ 93,932.38
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1	31,456.64		-	31,456.64
3. PENNDOT approved adjustments					
4. Total funds available for equipment acquisition		125,389.02		-	125,389.02
5. Less: Major equipment expenditures		17,443.71			17,443.71
6. Remainder		107,945.31			 107,945.31
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$	107,945.31	\$		\$ 107,945.31

### CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND 2013 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

						Adjusted
Expenditure Summary	Reported		Adjustments		Amount	
Maior aguirmant muchassa	\$	17 442 71	\$		ф	17 442 71
Major equipment purchases	<b>3</b>	17,443.71	Þ	-	\$	17,443.71
Minor equipment purchases		5,906.00		-		5,906.00
Computer/Computer related training		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		6,948.96		-		6,948.96
Traffic control devices		6,572.43		-		6,572.43
Street lighting		-		-		-
Storm sewers and drains		97,335.05		-		97,335.05
Repairs of tools and machinery		-		-		-
Maintenance and repair of						
roads and bridges		2,702.00		-		2,702.00
Highway construction and						
rebuilding projects		-		-		-
Miscellaneous				_		
Total (To Section 2, Line 5)	\$	136,908.15	\$	-	\$	136,908.15

### CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND 2013 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	Adjı	ustments	Adjusted Amount
1. Balance, January 1, 2013	\$ 123,649.39	\$	-	\$ 123,649.39
Receipts:				
2. State allocation	154,736.19		-	154,736.19
2a. Turnback allocation	-		-	-
2b. Interest on investments (Note 3)	606.78		-	606.78
2c. Miscellaneous (Finding)	2,975.00		-	2,975.00
3. Total receipts	158,317.97			158,317.97
4. Total funds available	281,967.36		_	281,967.36
5. Expenditures (Section 1)	 136,908.15			136,908.15
6. Balance, December 31, 2013	\$ 145,059.21	\$		\$ 145,059.21

### CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND 2013 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance		Reported	Adju	stments	Adjusted Amount
1. Prior year equipment balance	\$	107,945.31	\$	-	\$ 107,945.31
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1	30,947.24		-	30,947.24
3. PENNDOT approved adjustments					
4. Total funds available for equipment acquisition		138,892.55		-	138,892.55
5. Less: Major equipment expenditures		17,443.71			17,443.71
6. Remainder		121,448.84		-	121,448.84
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$	121,448.84	\$	<u>-</u> _	\$ 121,448.84

### 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:

Prior To 2012	2012	2013	2014
\$4,000.00	\$10,000.00	\$10,200.00	\$10,300.00

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

Prior To 2012	2012	2013	2014
\$4,000.00	\$10,000.00	\$10,200.00	\$10,300.00

• 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 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.

### 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.

### 1. <u>Criteria (Continued)</u>

### Section 3 (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 Third Class City Code, Title 53 P.S § 36804.1, authorizes the city 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.

### 2. <u>Deposits (Continued)</u>

There were no deposits exposed to custodial credit risk as of December 31, 2013. 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.

### Fund Balance

The fund balance as of December 31, 2013 consists of the following:

Cash \$145,059.21

### 3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$989.59 during 2012, and \$606.78 during 2013, thus providing additional funds for road maintenance and repairs.

### 4. Adjustments

### 2012 - Section 1

An adjustment of \$(312,480.94) was made to "Miscellaneous" because transfers between two Liquid Fuels Tax Fund accounts were incorrectly reported as expenditures.

### 2012 - Section 2

An adjustment of \$(312,480.94) was made to "Miscellaneous" because transfers between two Liquid Fuels Tax Fund accounts were incorrectly reported as receipts.

### 5. Lease-Purchase Agreement

On March 25, 2010, the municipality entered into a lease-purchase agreement with F.N.B. Commercial Leasing to purchase a 2010 Case loader/backhoe for \$76,984.00. The municipality received a trade-in allowance for a used Case backhoe of \$9,984.00, leaving \$67,000.00 to be financed. The agreement was for a term of five years at an interest rate of 5.00 percent. Principal and interest payments of \$14,738.22 are due annually. Prior years' principal payments from the Liquid Fuels Tax Fund were \$7,369.19. Additionally, the municipality paid principal of \$19,494.16 and interest of \$2,613.09 from the Sewer Fund.

During the current examination period the municipality paid principal of \$14,738.40 from the Liquid Fuels Tax Fund. This amount is reflected in major equipment purchases on the 2012 and 2013 Forms MS-965 - Section 1. Additionally, the municipality paid principal of \$11,360.95 and interest of \$3,377.09 from the Sewer Fund. The outstanding balance of the lease-purchase agreement as of December 31, 2013 was \$14,037.30, plus interest.

### 6. <u>Lease-Purchase Agreement</u>

On November 29, 2010, the municipality entered into a lease-purchase agreement with Ford Motor Credit to purchase a 2011 Ford F-250 for \$38,744.91 and a 2011 Ford Crown Victoria for \$32,921.36, plus an underwriting fee of \$425.00. The total amount of the lease-purchase agreement was \$72,091.27. The agreement was for a term of four years at an interest rate of 6.10 percent. The first year principal payment of \$18,332.18 was due on October 7, 2011. Additionally, for the next three years, principal and interest payments of \$20,149.02 are due annually. The breakout of the annual payment is \$10,888.53 from the Liquid Fuels Tax Fund and \$9,260.49 from the General Fund. Prior years' principal payments from the Liquid Fuels Tax Fund were \$10,562.75. Additionally, the municipality paid principal of \$7,769.43 from the General Fund.

During the current examination period the municipality paid principal of \$20,149.02 from the Liquid Fuels Tax Fund. This amount is reflected in major equipment purchases on the 2012 and 2013 Forms MS-965 - Section 1. Additionally, the municipality paid principal of \$14,619.47 and interest of \$5,529.55 from the General Fund. The outstanding balance of the lease-purchase agreement as of December 31, 2013 was \$18,990.60, plus interest.

## CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND FINDING AND RECOMMENDATION FOR THE PERIOD JANUARY 1, 2012 TO DECEMBER 31, 2013

### <u>Finding - Nonpermissible Expenditure</u>

Our examination disclosed that the municipality expended \$2,975.00 during 2012 from the Liquid Fuels Tax Fund for roof repairs to the public works garage, which is a nonpermissible expenditure.

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

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

On February 28, 2013, the municipality reimbursed \$2,975.00 to the Liquid Fuels Tax Fund.

### Recommendation

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

### Management's Response

The municipal officials stated:

The City of Pittston accepts the auditor's finding of an ineligible expense to repair a building roof at the public works garage.

### Auditor's Conclusion

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

## CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2012 TO DECEMBER 31, 2013

An exit conference was held March 6, 2014. Those participating were:

### **CITY OF PITTSTON**

Mr. Joseph Moskovitz, City Administrator

### <u>DEPARTMENT OF THE AUDITOR GENERAL</u>

Mr. Jerome Werner, Auditor

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

## CITY OF PITTSTON LUZERNE COUNTY LIQUID FUELS TAX FUND REPORT DISTRIBUTION FOR THE PERIOD JANUARY 1, 2012 TO DECEMBER 31, 2013

This report was initially distributed to:

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

City of Pittston Luzerne County 35 Broad Street Pittston, PA 18640

The Honorable Jason Klush Mayor

Mr. Joseph Moskovitz City Administrator

This report is a matter of public record and is available online at <a href="http://www.auditorgen.state.pa.us">http://www.auditorgen.state.pa.us</a>. 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: <a href="mailto:news@auditorgen.state.pa.us">news@auditorgen.state.pa.us</a>.