

ATTESTATION ENGAGEMENT

City of Wilkes-Barre
Luzerne County, Pennsylvania
40-304
Liquid Fuels Tax Fund
For the Period
January 1, 2012 to December 31, 2013

September 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 City of Wilkes-Barre, Luzerne County, for the period January 1, 2012 to December 31, 2013. The city'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 Wilkes-Barre, 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 city'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)

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 Wilkes-Barre, 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 Wilkes-Barre, 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 Wilkes-Barre, Luzerne County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the City of Wilkes-Barre, 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 Wilkes-Barre, 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.

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

- Retroactive Expenditure.
- Nonpermissible Expenditures - Recurring.
- Failure To Obtain Project Approval.

Independent Auditor's Report (Continued)

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

We are concerned in light of the city's failure to correct a previously reported finding for nonpermissible expenditures. During our current examination the city made retroactive expenditures, nonpermissible expenditures, and failed to obtain project approval. The city should strive to comply with the recommendations and corrective actions noted in this report.

We appreciate the courtesy extended by the City of Wilkes-Barre, Luzerne County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.



Eugene A. DePasquale
Auditor General

May 8, 2014

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CITY OF WILKES-BARRE
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 city is responsible. The allocation of these funds to municipalities is based: (1) 50 percent on the city's proportion of local road mileage to the total local road mileage in the state, and (2) 50 percent on the proportion of a city'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 city from the Commonwealth of Pennsylvania.

Each city 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 city may not deposit any other monies into this fund except when the city 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 city 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 city 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 WILKES-BARRE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2012 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

| <u>Expenditure Summary</u> | <u>Reported</u> | <u>Adjustments (Note 4)</u> | <u>Adjusted Amount</u> |
|---|-----------------------------|---------------------------------|-----------------------------|
| Major equipment purchases | \$ 124,053.04 | \$ (15,385.05) | \$ 108,667.99 |
| Minor equipment purchases | - | - | - |
| Computer/Computer related training | - | - | - |
| Agility projects | - | - | - |
| Cleaning streets and gutters | - | - | - |
| Winter maintenance services | 102,215.67 | - | 102,215.67 |
| Traffic control devices | - | - | - |
| Street lighting | - | - | - |
| Storm sewers and drains | - | - | - |
| Repairs of tools and machinery | - | - | - |
| Maintenance and repair of roads and bridges | 29,897.55 | - | 29,897.55 |
| Highway construction and rebuilding projects | 542,270.55 | - | 542,270.55 |
| Miscellaneous (Finding No. 2) | - | 15,385.05 | 15,385.05 |
| | <u> </u> | <u> </u> | <u> </u> |
| Total (To Section 2, Line 5) | <u><u>\$ 798,436.81</u></u> | <u><u>\$ -</u></u> | <u><u>\$ 798,436.81</u></u> |

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

CITY OF WILKES-BARRE
 LUZERNE 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 | \$ 371,046.34 | \$ - | \$ 371,046.34 |
| Receipts: | | | |
| 2. State allocation | 777,789.48 | - | 777,789.48 |
| 2a. Turnback allocation | 17,120.00 | - | 17,120.00 |
| 2b. Interest on investments (Note 3) | 1,527.72 | - | 1,527.72 |
| 2c. Miscellaneous (Note 5) | 83,025.09 | - | 83,025.09 |
| 3. Total receipts | <u>879,462.29</u> | <u>-</u> | <u>879,462.29</u> |
| 4. Total funds available | <u>1,250,508.63</u> | <u>-</u> | <u>1,250,508.63</u> |
| 5. Expenditures (Section 1) | <u>798,436.81</u> | <u>-</u> | <u>798,436.81</u> |
| 6. Balance, December 31, 2012 | <u><u>\$ 452,071.82</u></u> | <u><u>\$ -</u></u> | <u><u>\$ 452,071.82</u></u> |

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

CITY OF WILKES-BARRE
 LUZERNE 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 | \$ 371,046.34 | \$ - | \$ 371,046.34 |
| 2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2) | 158,981.90 | - | 158,981.90 |
| 3. PENNDOT approved adjustments | <u>-</u> | <u>-</u> | <u>-</u> |
| 4. Total funds available for equipment acquisition | 530,028.24 | - | 530,028.24 |
| 5. Less: Major equipment expenditures | <u>124,053.04</u> | <u>(15,385.05)</u> | <u>108,667.99</u> |
| 6. Remainder | <u>405,975.20</u> | <u>15,385.05</u> | <u>421,360.25</u> |
| 7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) | <u>\$ 405,975.20</u> | <u>\$ 15,385.05</u> | <u>\$ 421,360.25</u> |

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

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

| <u>Expenditure Summary</u> | <u>Reported</u> | <u>Adjustments (Note 4)</u> | <u>Adjusted Amount</u> |
|---|------------------------|---------------------------------|----------------------------|
| Major equipment purchases | \$ 145,585.24 | \$ (36,924.12) | \$ 108,661.12 |
| Minor equipment purchases | - | - | - |
| Computer/Computer related training | - | - | - |
| Agility projects | - | - | - |
| Cleaning streets and gutters | 23,509.07 | - | 23,509.07 |
| Winter maintenance services | 154,881.18 | - | 154,881.18 |
| Traffic control devices | 79,976.20 | - | 79,976.20 |
| Street lighting | 388,652.28 | - | 388,652.28 |
| Storm sewers and drains | - | - | - |
| Repairs of tools and machinery | - | - | - |
| Maintenance and repair of roads and bridges | 48,532.57 | - | 48,532.57 |
| Highway construction and rebuilding projects | 349,469.49 | - | 349,469.49 |
| Miscellaneous (Finding No. 2) | - | 36,924.12 | 36,924.12 |
| | <u>-</u> | <u>36,924.12</u> | <u>36,924.12</u> |
| Total (To Section 2, Line 5) | <u>\$ 1,190,606.03</u> | <u>\$ -</u> | <u>\$ 1,190,606.03</u> |

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

CITY OF WILKES-BARRE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2013 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, 2013 | \$ 452,071.82 | \$ - | \$ 452,071.82 |
| Receipts: | | | |
| 2. State allocation | 763,778.62 | - | 763,778.62 |
| 2a. Turnback allocation | 17,120.00 | - | 17,120.00 |
| 2b. Interest on investments (Note 3) | 1,820.74 | - | 1,820.74 |
| 2c. Miscellaneous (Note 5) | 451,833.13 | - | 451,833.13 |
| 3. Total receipts | <u>1,234,552.49</u> | <u>-</u> | <u>1,234,552.49</u> |
| 4. Total funds available | <u>1,686,624.31</u> | <u>-</u> | <u>1,686,624.31</u> |
| 5. Expenditures (Section 1) | <u>1,190,606.03</u> | <u>-</u> | <u>1,190,606.03</u> |
| 6. Balance, December 31, 2013 | <u><u>\$ 496,018.28</u></u> | <u><u>\$ -</u></u> | <u><u>\$ 496,018.28</u></u> |

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

CITY OF WILKES-BARRE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2013 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 | \$ 405,975.20 | \$ 15,385.05 | \$ 421,360.25 |
| 2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2) | 156,179.72 | - | 156,179.72 |
| 3. PENNDOT approved adjustments | - | - | - |
| 4. Total funds available for equipment acquisition | 562,154.92 | 15,385.05 | 577,539.97 |
| 5. Less: Major equipment expenditures | <u>145,585.24</u> | <u>(36,924.12)</u> | <u>108,661.12</u> |
| 6. Remainder | <u>416,569.68</u> | <u>52,309.17</u> | <u>468,878.85</u> |
| 7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) | <u>\$ 416,569.68</u> | <u>\$ 52,309.17</u> | <u>\$ 468,878.85</u> |

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

CITY OF WILKES-BARRE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS
 FOR THE PERIOD
 JANUARY 1, 2012 TO DECEMBER 31, 2013

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.

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

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.

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

1. Criteria (Continued)

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.

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

2. Deposits (Continued)

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 | <u>\$496,018.28</u> |
|------|---------------------|

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$1,527.72 during 2012, and \$1,820.74 during 2013, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2012 - Section 1

Adjustments were made to "Major equipment purchases" and "Miscellaneous" because expenditures of \$15,385.05 were misclassified (Finding No. 2).

2012 - Section 3

An adjustment of \$(15,385.05) was made to "Major equipment expenditures" to reflect the adjustment made to major equipment purchases in 2012 - Section 1.

2013 - Section 1

Adjustments were made to "Major equipment purchases" and "Miscellaneous" because expenditures of \$36,924.12 were misclassified (Finding No. 2).

CITY OF WILKES-BARRE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS
 FOR THE PERIOD
 JANUARY 1, 2012 TO DECEMBER 31, 2013

4. Adjustments (Continued)

2013 - Section 3

An adjustment of \$15,385.05 was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2012 - Section 3.

An adjustment of \$(36,924.12) was made to “Major equipment expenditures” to reflect the adjustment made to major equipment purchases in 2013 - Section 1.

5. Miscellaneous Receipts

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

| <u>Source</u> | <u>Description</u> | <u>2012</u> | <u>2013</u> |
|--|-------------------------------|--------------------|---------------------|
| General Fund | Reimbursement (Comment No. 1) | \$29,976.93 | \$ - |
| Commonwealth of Pennsylvania | Municipal sweeping agreement | 2,851.47 | 2,951.37 |
| Commonwealth of Pennsylvania | Winter maintenance agreement | 50,196.69 | 51,150.35 |
| City of Wilkes-Barre Office of Community Development | K Route project | - | 237,000.00 |
| General Fund | Reimbursement (Comment No. 2) | - | 33,634.10 |
| General Fund | Reimbursement (Finding No. 1) | - | 74,788.14 |
| General Fund | Reimbursement (Finding No. 2) | - | 52,309.17 |
| Totals | | <u>\$83,025.09</u> | <u>\$451,833.13</u> |

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

6. Lease-Purchase Agreement

On April 22, 2009, the city entered into a lease-purchase agreement with PNC Leasing to purchase a 2009 Ford F-550 truck and a pothole patcher for \$121,787.00. The agreement was for a term of seven years at an interest rate of 3.8 percent. Principal and interest payments of \$4,927.34 are due quarterly. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$44,772.92 and \$9,427.77, respectively.

During the current examination period the city paid principal of \$34,703.15 and interest of \$4,715.56 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2012 and 2013 Forms MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2013 was \$42,310.93, plus interest.

7. Lease-Purchase Agreement

On November 9, 2009, the city entered into a lease-purchase agreement with PNC Leasing to purchase a Ford F-550 4x4 truck for \$62,826.00. The agreement was for a term of five years at an interest rate of 4.0 percent. Principal and interest payments of \$3,472.77 are due quarterly. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$20,817.73 and \$3,491.62, respectively. Additionally, the city paid principal of \$2,860.21 and interest of \$612.55 from the General Fund.

During the current examination period the city paid principal of \$25,589.10 and interest of \$2,193.03 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2012 and 2013 Forms MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2013 was \$13,558.96, plus interest.

8. Bank Loan

On February 28, 2011, the city borrowed \$2,090,000.00 from the Pennsylvania Infrastructure Bank for paving projects. The term of the loan was for ten years at an interest rate of 1.63 percent. Principal and interest payments of \$113,643.51 are due semi-annually. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$96,662.26 and \$16,981.25, respectively.

During the current examination period the city paid principal of \$394,566.92 and interest of \$61,269.83 from the Liquid Fuels Tax Fund. These amounts are reflected in highway construction and rebuilding projects on the 2012 and 2013 Forms MS-965 - Section 1. The outstanding balance of the loan as of December 31, 2013 was \$1,598,770.82, plus interest.

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

9. Lease-Purchase Agreement

On October 25, 2013, the city entered into a lease-purchase agreement with PNC Leasing to purchase five 2014 Mack dump trucks for \$634,030.00. The agreement was for a term of five years. Principal and interest payments of \$11,280.34 are due monthly.

During the current examination period the city paid principal of \$19,834.68 and interest of \$2,726.00 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2013 Form MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2013 was \$614,195.32, plus interest.

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

Finding No. 1 - Retroactive Expenditure

Our examination disclosed that on June 6, 2013 the city expended \$74,788.14, for a 2012 paving project. However the invoice was dated September 5, 2012, therefore this is a retroactive expenditure.

The Department of Transportation's *Publication 9* contains the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter Two, Section 2.7.2, states, in relevant part:

Examples of what Liquid Fuels Tax Fund monies may not be expended for are:

- 8. Repayments of prior year's expenditures.

- 17. Retroactive expenditures or repayment of other funds for prior period expenditures.

Because these expenditures were incurred on September 5, 2012 and were not paid until June 6, 2013, the expenditures incurred were not paid in a reasonable period of time. Therefore, the city did not comply with the Department of Transportation's *Publication 9*.

On December 30, 2013, the city reimbursed \$74,788.14 to the Liquid Fuels Tax Fund.

Recommendation

We recommend that, in the future, the city comply with the Department of Transportation's *Publication 9* as noted above.

Management's Response

The city officials stated:

An error was made, recognized, and reimbursed accordingly.

Auditor's Conclusion

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

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

Finding No. 2 - Nonpermissible Expenditures - Recurring

We cited the city for making nonpermissible expenditures in our prior report for the period January 1, 2010 to December 31, 2011. However, our examination disclosed that the city expended \$15,385.05 during 2012 and \$36,924.12 during 2013 from the Liquid Fuels Tax Fund for the lease payments for a garbage truck, which are nonpermissible expenditures.

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 lease payments for a garbage truck, are outside the scope of permissible expenditures.

On December 30, 2013, the city reimbursed \$52,309.17 to the Liquid Fuels Tax Fund.

This condition occurred because the city failed to comply with our prior examination recommendation to comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

Recommendation

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

Management's Response

The city officials stated:

An error was made, recognized, and reimbursed accordingly.

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

Finding No. 2 - Nonpermissible Expenditures - Recurring (Continued)

Auditor's Conclusion

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

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

Finding No. 3 - Failure To Obtain Project Approval

Our examination disclosed that on January 11, 2012, the city expended \$9,426.00 for paving in excess of one inch on Central Lane without obtaining the approval of the Department of Transportation. Before paving of one inch in thickness or greater is done, the city must obtain the approval of the Department of Transportation. However, the city did not file an application with the Department of Transportation for the project and did not submit specifications for approval.

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

Additionally, *Publication 9*, Chapter Two, Section 2.8, states, in part:

The following criteria is used to determine when a project is required for work on local roads utilizing Liquid Fuels Tax Funds, when construction, reconstruction and/or resurfacing work exceeds one inch or more in depth as well as other activities.

Bituminous Surface: One inch thickness or greater.

The failure to comply with the Department of Transportation's *Publication 9* could result in the city having to reimburse \$9,426.00 to its Liquid Fuels Tax Fund.

A similar finding was also written in our prior examination. However, the city obtained approval for all road projects when required during 2013.

Recommendations

We recommend that the city reimburse \$9,426.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that before the city expends money on a project, it continues to apply for and obtain prior approval for the project, and when the project is completed it obtains approval of the completed work.

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

Finding No. 3 - Failure To Obtain Project Approval (Continued)

Management's Response

The city officials stated:

We did not realize project approval was needed. We will comply in the future.

Auditor's Conclusion

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

CITY OF WILKES-BARRE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
COMMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

Comment No. 1 - Summary Of 2009 Examination Recommendations

In our 2009 report we recommended that the Department of Transportation review our examination finding to determine if the city should reimburse \$29,976.93 to its Liquid Fuels Tax Fund for the purchase of roads materials without advertising for bids.

During our current examination we reviewed a letter dated February 2, 2012, from the Department of Transportation informing the city to reimburse \$29,976.93 to its Liquid Fuels Tax Fund. We noted that the city reimbursed this amount to its Liquid Fuels Tax Fund on March 12, 2012.

Comment No. 2 - Summary Of 2010-2011 Examination Recommendations

In our 2010-2011 report we recommended that the Department of Transportation review our examination finding to determine if the city should reimburse \$27,226.00 to its Liquid Fuels Tax Fund for bridge repairs without advertising for bids and \$6,408.10 for a nonpermissible expenditure.

During our current examination we reviewed a letter dated July 7, 2013, from the Department of Transportation informing the city to reimburse \$33,634.10 to its Liquid Fuels Tax Fund. We noted that the city reimbursed this amount to its Liquid Fuels Tax Fund on March 12, 2013.

In our prior report we also recommended that the city comply with *The Third Class City Code* and the Department of Transportation's *Publication 9* by advertising for bids for purchases over \$10,000.00. The thresholds for advertising for bids increased to purchases over \$18,500.00 for 2012, \$18,900.00 for 2013, and \$19,100.00 for 2014.

During our current examination we noted that the city complied with our recommendation.

CITY OF WILKES-BARRE
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 April 3, 2014. Those participating were:

CITY OF WILKES-BARRE

Mr. Brett Kittrick, Finance Director
Mr. Attilo Frati, Director of Operations
Ms. Kathy Kane, City Controller
Ms. Marie McCormick, City Administrator

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Jerome Werner, Auditor

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

CITY OF WILKES-BARRE
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 Wilkes-Barre
Luzerne County
40 East Market Street
Wilkes-Barre, PA 18711

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| The Honorable Thomas M. Leighton | Mayor |
| The Honorable William Barrett | Chairperson of Council |
| Mr. Attilo Frati | Director of Operations |
| Ms. Marie McCormick | City Administrator |
| Mr. Brett Kittrick | Finance Director |

This report is a matter of public record and is available online at <http://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.