

# ATTESTATION ENGAGEMENT

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Township of Butler  
Luzerne County, Pennsylvania  
40-204  
Liquid Fuels Tax Fund  
For the Period  
January 1, 2013 to December 31, 2013

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September 2014



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



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Department of the Auditor General  
Harrisburg, PA 17120-0018  
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EUGENE A. DePASQUALE  
AUDITOR GENERAL

### Independent Auditor's Report

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

We examined the accompanying Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Butler, Luzerne County, for the period January 1, 2013 to December 31, 2013. The municipality's management is responsible for the Form MS-965. Our responsibility is to express an opinion on the Form 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 Butler, Luzerne County's Form MS-965 for the period January 1, 2013 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 Form MS-965 With Adjustments are made by the Department of the Auditor General.

### Independent Auditor's Report (Continued)

As discussed in the Finding and Recommendations section of this report, the municipality purchased a 2013 Ford F-550 truck and new stainless steel dump body for \$64,396.00. The municipality expended \$50,000.00 from the Liquid Fuels Tax Fund and \$14,396.00 from the General Fund to purchase this equipment. The dump body cost \$29,990.00 and the truck cost \$34,406.00. The municipality stated that the truck and the dump body were purchased from a COSTARS contract, however, the municipality could not provide documentation that the Ford F-550 truck was purchased from a COSTARS contract. Therefore, only the dump body cost of \$29,990.00 was permissible to be paid from the Liquid Fuels Tax Fund.

In our opinion, except for the matter discussed in the preceding paragraph, the Form MS-965 With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Township of Butler, Luzerne County, for the period January 1, 2013 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 Form 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 Form 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 Form 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 Butler, 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 Township of Butler, Luzerne County's Form MS-965 that is more than inconsequential will not be prevented or detected by the Township of Butler, 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 Form MS-965 will not be prevented or detected by the Township of Butler, Luzerne County's internal control.

Independent Auditor's Report (Continued)

Our consideration of internal control over reporting on the Form 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 Form MS-965.

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

- Failure To Maintain Documentation For A Purchase Made From A COSTARS Contract.

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

We appreciate the courtesy extended by the Township of Butler, 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 6, 2014

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TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2013 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.

TOWNSHIP OF BUTLER  
 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	\$ 104,900.00	\$ -	\$ 104,900.00
Minor equipment purchases	1,285.18	-	1,285.18
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	80,302.85	-	80,302.85
Traffic control devices	8,903.33	-	8,903.33
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	26,164.15	-	26,164.15
Maintenance and repair of roads and bridges	48,802.12	1,351.71	50,153.83
Highway construction and rebuilding projects	94,335.00	-	94,335.00
Miscellaneous	1,351.71	(1,351.71)	-
	<u>                    </u>	<u>                    </u>	<u>                    </u>
Total (To Section 2, Line 5)	<u>\$ 366,044.34</u>	<u>\$ -</u>	<u>\$ 366,044.34</u>

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

TOWNSHIP OF BUTLER  
 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	\$ 204,029.04	\$ -	\$ 204,029.04
Receipts:			
2. State allocation	217,422.98	-	217,422.98
2a. Turnback allocation	55,560.00	-	55,560.00
2b. Interest on investments (Note 3)	279.18	-	279.18
2c. Miscellaneous (Note 5)	<u>24,766.95</u>	<u>-</u>	<u>24,766.95</u>
3. Total receipts	<u>298,029.11</u>	<u>-</u>	<u>298,029.11</u>
4. Total funds available	<u>502,058.15</u>	<u>-</u>	<u>502,058.15</u>
5. Expenditures (Section 1)	<u>366,044.34</u>	<u>-</u>	<u>366,044.34</u>
6. Balance, December 31, 2013	<u><u>\$ 136,013.81</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 136,013.81</u></u>

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



TOWNSHIP OF BUTLER  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 2013 FORM MS-965 – SECTION 3  
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 112,272.09	\$ -	\$ 112,272.09
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	54,596.60	-	54,596.60
3. PENNDOT approved adjustments	<u>22,533.00</u>	<u>-</u>	<u>22,533.00</u>
4. Total funds available for equipment acquisition	189,401.69	-	189,401.69
5. Less: Major equipment expenditures	<u>104,900.00</u>	<u>-</u>	<u>104,900.00</u>
6. Remainder	<u><u>84,501.69</u></u>	<u><u>-</u></u>	<u><u>84,501.69</u></u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u><u>\$ 84,501.69</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 84,501.69</u></u>

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

TOWNSHIP OF BUTLER  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2013 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.

TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2013 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.

TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2013 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 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.

TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2013 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 consists of the following:

Cash	<u><u>\$136,013.81</u></u>
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3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$279.18 during 2013, thus providing additional funds for road maintenance and repairs.

4. Adjustments

Section 1

Adjustments were made to "Maintenance and repair of roads and bridges" and "Miscellaneous" because expenditures of \$1,351.71 were misclassified.

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

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>Amount</u>
Vendor	Return of core deposit	\$ 940.00
Various residents	Sale of equipment	14,533.00
Foster Township supervisors	Sale of equipment	8,000.00
Vendor	Scrap recycling	<u>1,293.95</u>
Total		<u><u>\$24,766.95</u></u>

TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2013

**Finding - Failure To Maintain Documentation For A Purchase Made From A COSTARS Contract**

Our examination disclosed that during the examination period the municipality purchased a 2013 Ford F-550 truck and new stainless steel dump body for \$64,396.00. The municipality expended \$50,000.00 from the Liquid Fuels Tax Fund and \$14,396.00 from the General Fund to purchase this equipment. The dump body cost \$29,990.00 and the truck cost \$34,406.00. The municipality stated that the truck and the dump body were purchased from a COSTARS contract. COSTARS is a program run by the Department of General Services that permits local government entities to make purchases from state contracts. For items purchased from a COSTARS contract the municipality should maintain a contract number, a copy of its supplier's information, pricing/discount information, and any documentation of negotiations with other COSTARS suppliers. The municipality could not provide us with documentation that the purchase of the new truck was made from a COSTARS contract. The municipality did provide the COSTARS documentation for the purchase of the steel dump body; therefore, only the dump body cost of \$29,990.00 is permissible to be paid from the Liquid Fuels Tax Fund.

Because the municipality could not provide documentation that the Ford F-550 truck was purchased from COSTARS contracts and because the municipality did not advertise for bids for the purchase of the truck, we could not determine if the purchase was 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 \$18,900.00 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.

In addition, the above purchase was 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 \$18,900 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 \$18,900 . . . 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 \$18,900 . . .

TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2013

**Finding - Failure To Maintain Documentation For A Purchase Made From A COSTARS Contract (Continued)**

The failure to comply with *The Second Class Township Code* and the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$20,010.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$20,010.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality maintain a contract number, copies of its supplier's information, price/discount information, and any documentation of negotiations with other COSTARS suppliers.

Management's Response

The manager stated:

Butler Township purchased a Ford Dump Truck in March 2013. The purchase invoice has a reference for the "piggyback" discount. During the audit we discovered that the dealer was not a participant in the COSTARS program and the "piggyback" discount referenced in the invoice was just a discount they were extending to Butler Township.

Doing research on the COSTARS contracts throughout the 2013 year, we discovered that the COSTARS prices for the same vehicle, the F-550 dump truck, were substantially greater than the price we paid. I have provided the auditor with a copy of that COSTARS documentation showing the savings the township got by purchasing the truck from the local dealer.

COSTARS contract documents were in order for the dump truck "upfit".

A new policy and office practice has been initiated to ensure that all COSTARS contract numbers are on file before purchases are made.



TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
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**Finding - Failure To Maintain Documentation For A Purchase Made From A COSTARS  
Contract (Continued)**

Auditor's Conclusion

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

TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2013

An exit conference was held April 10, 2014. Those participating were:

TOWNSHIP OF BUTLER

Mrs. Maryanne Petrilla, Township Manager  
Mrs. Joan M. Pusateri, Budget and Finance Manager

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Robert A. Bauder, Auditor

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

TOWNSHIP OF BUTLER  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2013

This report was initially distributed to:

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

Township of Butler  
Luzerne County  
415 West Butler Drive  
Drums, PA 18222-0505

The Honorable Brian Kisenwether	Chairman of the Board of Supervisors
Mrs. Maryanne Petrilla	Township Manager
Mrs. Joan M. Pusateri	Budget and Finance Manager

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](mailto:news@auditorgen.state.pa.us).