

# ATTESTATION ENGAGEMENT

---

Borough of Ashville  
Cambria County, Pennsylvania  
11-401  
Liquid Fuels Tax Fund  
For the Period  
January 1, 2018 to December 31, 2020

---

November 2022



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General

---



Commonwealth of Pennsylvania  
Department of the Auditor General  
Harrisburg, PA 17120-0018  
Facebook: Pennsylvania Auditor General  
Twitter: @PAAuditorGen  
www.PaAuditor.gov

TIMOTHY L. DEFOOR  
AUDITOR GENERAL

### Independent Auditor's Report

The Honorable Yassmin Gramian, P.E.  
Secretary  
Department of Transportation  
Harrisburg, PA 17120

We were engaged to examine the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Ashville, Cambria County, for the period January 1, 2018 to December 31, 2020, which were required to be prepared in accordance with the information required by the Pennsylvania Department of Transportation and the criteria described in the Background section of this report and the Department of Transportation's Publication 9. The municipality's management is responsible for presenting the Forms MS-965 in accordance with the criteria described in the Background section of this report and the Department of Transportation's Publication 9. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on conducting the examination in accordance with attestation standards established by the AICPA and *Government Auditing Standards* issued by the Comptroller General of the United States.

We are required to be independent and to meet our ethical responsibilities in accordance with relevant ethical requirements relating to the examination.

As described in the Auditor Description Of Select Transactions section of this report, the adjustments included on the Forms MS-965 With Adjustments were proposed by the Department of the Auditor General.

The attestation standards require that we request written representations from management to confirm certain matters and to support other audit evidence. Accordingly, we repeatedly called, emailed, and mailed management requesting management representations, with the last request made via certified mail on August 18, 2022. The President of Council signed for the certified mail on August 25, 2022, but we never received a management representation letter. Management failed to provide written representations and did not respond to our requests to approve our proposed adjustments. Management previously agreed to provide representations and approve proposed adjustments in the engagement letter, and the failure to do so resulted in limitations on the scope of our examination.

### Independent Auditor's Report (Continued)

Because of the limitations on the scope of our examination discussed in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on whether the Forms MS-965 With Adjustments is in accordance with the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of Ashville, Cambria County, for the period January 1, 2018 to December 31, 2020, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms MS-965; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Forms MS-965. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We were engaged to perform 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 internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A *deficiency in internal control* 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 and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Forms MS-965 will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over reporting on the Forms MS-965 was for the limited purpose of expressing an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

### Independent Auditor's Report (Continued)

In connection with our engagement, we performed tests of the Borough of Ashville, Cambria County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Forms MS-965. The results of our tests disclosed the instances of noncompliance listed below that are required to be reported under *Government Auditing Standards*. Additionally, if the scope of our work had been sufficient to enable us to express an opinion on the Forms MS-965, additional instances of noncompliance or other matters may have been identified and reported herein.

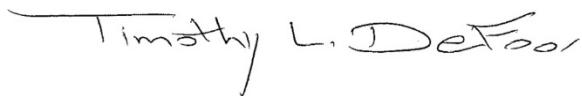
- Nonpermissible Expenditure.
- Noncompliance With Advertising And Bidding Requirements.
- Transfers To The General Fund For Anticipated Liquid Fuels Tax Fund Expenditures.
- Municipality Expended More Than The Liquid Fuels Tax Fund Balance.

We also noted a matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Late Receipt Of Allocations - Recurring.

This report is intended solely for the information and use of PennDOT and the Borough of Ashville, Cambria County, and is not intended to be and should not be used by anyone other than the specified parties.

If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.



Timothy L. DeFoor  
Auditor General  
September 30, 2022

# CONTENTS

	<u>Page</u>
Background.....	1
Financial Section:	
2018 Form MS-965 With Adjustments .....	5
2019 Form MS-965 With Adjustments .....	8
2020 Form MS-965 With Adjustments .....	11
Auditor Description Of Select Transactions.....	14
Findings And Recommendations:	
Finding No. 1 - Nonpermissible Expenditure.....	16
Finding No. 2 - Noncompliance With Advertising And Bidding Requirements .....	17
Finding No. 3 - Transfers To The General Fund For Anticipated Liquid Fuels Tax Fund Expenditures .....	19
Finding No. 4 - Municipality Expended More Than The Liquid Fuels Tax Fund Balance.....	21
Finding No. 5 - Late Receipt Of Allocations - Recurring .....	22
Summary Of Prior Examination Recommendations.....	24
Summary Of Exit Conference.....	25
Report Distribution .....	26

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, (72 P.S. § 2615.5 et seq.), 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 allocation of Liquid Fuels Tax funds and annual maintenance payments that it receives into a special fund called either 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 such a 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. Department of Transportation's *Publication 9* includes the policies and procedures for the administration of Act 655, as amended, and the Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

To qualify for the annual allocation of Liquid Fuels Tax funds, *Publication 9* indicates that each municipality shall:

1. Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
2. Make deposits and payments or expenditures in compliance with Act 655 of 1956, as amended. Failure to do so may result in not receiving allocations from PennDOT until all discrepancies are resolved. *Publication 9*, Section 2.6, includes information about investing Liquid Fuels Tax monies, using loan or bond proceeds, and types of receipts into the Liquid Fuels Tax Fund.

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 BACKGROUND  
 FOR THE PERIOD  
 JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

3. Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31<sup>st</sup> and the Survey of Financial Condition By March 15<sup>th</sup>.
4. Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
5. Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation's Financial Consultants.

*Criteria*

The criteria for the Form MS-965 With Adjustment are described below.

Section 1 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:

2017	2018	2019	2020
\$10,700.00	\$10,900.00	\$11,100.00	\$11,300.00

- Minor equipment purchases are purchases of road machinery and road equipment with varying yearly costs that are less than or equal to the amounts indicated below:

2017	2018	2019	2020
\$10,700.00	\$10,900.00	\$11,100.00	\$11,300.00

- Agility projects are exchanges of services with the Department of Transportation.

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

Section 2 of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is available from the Department of Transportation in March of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- Municipalities that transferred roads from the Commonwealth of Pennsylvania to the municipality through the Highway Transfer Program receive annual turnback allocations in March of each year from the Department of Transportation. Turnback allocations are based on the mileage of the roads transferred.
- Expenditures include the total transferred from Section 1.

Section 3 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.



BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

*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 Form MS-965 has 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 Form MS-965 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity.

*Basis Of Accounting*

The accompanying Form MS-965 With Adjustments is required to be 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 required to be 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.

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2018 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ -	\$ -	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	4,760.51	-	4,760.51
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	2,267.32	-	2,267.32
Maintenance and repair of roads and bridges	2,502.10	-	2,502.10
Highway construction and rebuilding projects	-	-	-
Miscellaneous	5,000.00	-	5,000.00
 Total (To Section 2, Line 5)	 <u>\$ 14,529.93</u>	 <u>\$ -</u>	 <u>\$ 14,529.93</u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2018 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, 2018	\$ 3,056.92	\$ -	\$ 3,056.92
Receipts:			
2. State allocation	12,046.62	-	12,046.62
2a. Turnback allocation	-	-	-
2b. Interest on investments	18.00	-	18.00
2c. Miscellaneous	-	-	-
3. Total receipts	<u>12,064.62</u>	<u>-</u>	<u>12,064.62</u>
4. Total funds available	<u>15,121.54</u>	<u>-</u>	<u>15,121.54</u>
5. Expenditures (Section 1)	<u>14,529.93</u>	<u>-</u>	<u>14,529.93</u>
6. Balance, December 31, 2018	<u><u>\$ 591.61</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 591.61</u></u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2018 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	\$ 3,056.92	\$ -	\$ 3,056.92
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	2,409.32	-	2,409.32
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	5,466.24	-	5,466.24
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>5,466.24</u>	<u>-</u>	<u>5,466.24</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 591.61</u>	<u>\$ -</u>	<u>\$ 591.61</u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2019 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ -	\$ -	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	8,088.70	-	8,088.70
Traffic control devices	-	-	-
Street lighting	2,656.79	-	2,656.79
Storm sewers and drains	-	-	-
Repairs of tools and machinery	5,448.74	-	5,448.74
Maintenance and repair of roads and bridges	1,883.00	-	1,883.00
Highway construction and rebuilding projects	-	-	-
Miscellaneous	1,437.25	-	1,437.25
 Total (To Section 2, Line 5)	 <u>\$ 19,514.48</u>	 <u>\$ -</u>	 <u>\$ 19,514.48</u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2019 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, 2019	\$ 591.61	\$ -	\$ 591.61
Receipts:			
2. State allocation	12,329.27	-	12,329.27
2a. Turnback allocation	-	-	-
2b. Interest on investments	18.67	-	18.67
2c. Miscellaneous	8,689.21	-	8,689.21
3. Total receipts	21,037.15	-	21,037.15
4. Total funds available	21,628.76	-	21,628.76
5. Expenditures (Section 1)	19,514.48	-	19,514.48
6. Balance, December 31, 2019	<u>\$ 2,114.28</u>	<u>\$ -</u>	<u>\$ 2,114.28</u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2019 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	\$ 591.61	\$ -	\$ 591.61
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	2,465.85	-	2,465.85
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	3,057.46	-	3,057.46
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>3,057.46</u>	<u>-</u>	<u>3,057.46</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 2,114.28</u>	<u>\$ -</u>	<u>\$ 2,114.28</u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2020 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ -	\$ -	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	4,284.71	-	4,284.71
Agility projects	-	-	-
Cleaning streets and gutters	322.92	-	322.92
Winter maintenance services	4,704.72	(162.26)	4,542.46
Traffic control devices	-	-	-
Street lighting	2,656.76	258.53	2,915.29
Storm sewers and drains	399.17	-	399.17
Repairs of tools and machinery	530.66	162.26	692.92
Maintenance and repair of roads and bridges	4,091.91	-	4,091.91
Highway construction and rebuilding projects	-	-	-
Miscellaneous	258.53	(258.53)	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 17,249.38</u>	<u>\$ -</u>	<u>\$ 17,249.38</u>



BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2020 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, 2020	\$ 2,114.28	\$ -	\$ 2,114.28
Receipts:			
2. State allocation	11,997.69	-	11,997.69
2a. Turnback allocation	-	-	-
2b. Interest on investments	11.41	-	11.41
2c. Miscellaneous	3,000.00	-	3,000.00
3. Total receipts	<u>15,009.10</u>	<u>-</u>	<u>15,009.10</u>
4. Total funds available	<u>17,123.38</u>	<u>-</u>	<u>17,123.38</u>
5. Expenditures (Section 1)	<u>17,249.38</u>	<u>-</u>	<u>17,249.38</u>
6. Balance, December 31, 2020	<u><u>\$ (126.00)</u></u>	<u><u>\$ -</u></u>	<u><u>\$ (126.00)</u></u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 2020 FORM MS-965 – SECTION 3  
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 2,114.28	\$ -	\$ 2,114.28
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	2,399.54	-	2,399.54
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	4,513.82	-	4,513.82
5. Less: Major equipment expenditures	<u>4,284.71</u>	<u>-</u>	<u>4,284.71</u>
6. Remainder	<u>229.11</u>	<u>-</u>	<u>229.11</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ (126.00)</u>	<u>\$ -</u>	<u>\$ (126.00)</u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
 FOR THE PERIOD  
 JANUARY 1, 2018 TO DECEMBER 31, 2020

The following information relates to certain types of transactions for which the Pennsylvania Department of Transportation requested that we provide additional detail:

Adjustments

2020 - Section 1

Adjustments were proposed to “Winter maintenance services” and “Repairs of tools and machinery” because expenditures of \$162.26 were misclassified.

Adjustments were proposed to “Street lighting” and “Miscellaneous” because expenditures of \$258.53 were misclassified.

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>2019</u>	<u>2020</u>
General Fund	Reimbursement (Summary Of Prior Recommendations)	\$3,689.21	\$ -
Sewage Fund	Reimbursement (Finding No. 1)	5,000.00	-
General Fund	Reimbursement (Finding No. 3)	-	1,437.25
General Fund	Grant	-	1,562.75
		<u>-\$8,689.21</u>	<u>\$3,000.00</u>
Totals		<u>\$8,689.21</u>	<u>\$3,000.00</u>

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
 FOR THE PERIOD  
 JANUARY 1, 2018 TO DECEMBER 31, 2020

Miscellaneous Expenditures

The following miscellaneous expenditures were paid from the Liquid Fuels Tax Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>2018</u>	<u>2019</u>
Insurance Company General Fund	Workers Compensation Insurance (Finding No. 1) Transfer (Finding No. 3)	\$5,000.00 -	\$ - 1,437.25
Totals		<u>\$5,000.00</u>	<u>\$1,437.25</u>

Lease-Purchase Agreement

On June 15, 2020, the municipality entered into a lease-purchase agreement with Kubota Leasing to purchase a tractor and accessories for \$31,245.00. The agreement was for a term of five years at an interest rate of 4.85 percent. Principal and interest payments of \$587.49 are due monthly.

During the current examination period, the municipality paid principal of \$3,397.21, interest of \$715.22, and fees of \$172.28 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2020 Form MS-965 - Section 1. However, the tractor was not properly advertised and bid, and therefore no payments should have been made from the Liquid Fuels Tax Fund (see Finding No. 3). The outstanding balance of the lease-purchase agreement as of December 31, 2020, was \$27,847.79, plus interest.

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 1 - Nonpermissible Expenditure**

Our examination disclosed that the municipality expended \$5,000.00 on August 27, 2018, from its Liquid Fuels Tax Fund for Worker's Compensation and Employers Liability Insurance, 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 Worker's Compensation and Employers Liability Insurance, is outside the scope of permissible expenditures.

On February 14, 2019, the municipality reimbursed \$5,000.00 to the Liquid Fuels Tax Fund.

The Council President stated that this occurred because she was in the process of learning the relevant requirements.

**Recommendation**

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

**Management's Response**

The municipal officials offered no formal response at this time.

**Auditor's Conclusion**

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

BOROUGH OF ASHVILLE  
 CAMBRIA COUNTY  
 LIQUID FUELS TAX FUND  
 FINDINGS AND RECOMMENDATIONS  
 FOR THE PERIOD  
 JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 2 - Noncompliance With Advertising And Bidding Requirements**

Our examination disclosed that during 2020 the municipality entered into a lease-purchase agreement for a Kubota Tractor and attachments for \$31,245.00 without advertising and bidding. The municipality expended a total of \$4,284.71 during 2020 from the Liquid Fuels Tax Fund for lease payments. These expenditures were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
None	None	EFT	06/15/2020	\$ 587.49
None	None	EFT	07/15/2020	587.49
None	None	EFT	08/15/2020	587.49
None	None	EFT	09/15/2020	673.63
None	None	EFT	10/15/2020	673.63
None	None	EFT	11/15/2020	587.49
None	None	EFT	12/15/2020	587.49
2020 Total				<u><u>\$4,284.71</u></u>

The above expenditures were not made in compliance with the advertising, bidding, and contract requirements of *The Borough Code*, 53 P.S. § 46402(a), (also found at § 1402(a) of *The Borough Code* as published by the Local Government Commission), which requires that purchases made over \$18,500.00 during 2012 must be advertised, bid, and awarded by contract. The bidding threshold increased to purchases over \$20,100.00 for 2018, \$20,600.00 for 2019, \$21,000.00 for 2020, and \$21,300.00 for 2021. *The Borough Code*, 53 P.S. § 46403(a), (also found at § 1403(a) of *The Borough Code* as published by the Local Government Commission) further states that advertising, bidding and contract requirements should not be evaded through piecemeal purchases.

The Council President stated that this occurred because she was in the process of learning the relevant requirements.

The failure to comply with *The Borough Code* could result in the borough having to reimburse \$4,284.71 to its Liquid Fuels Tax Fund.

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 2 - Noncompliance With Advertising And Bidding Requirements (Continued)**

Recommendations

We recommend that the borough reimburse \$4,284.71 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the borough complies with *The Borough Code* as noted in this finding.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

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

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 3 - Transfers To The General Fund For Anticipated Liquid Fuels Tax Fund Expenditures**

Our examination disclosed that during 2019, the municipality transferred a total of \$10,000.00 from the Liquid Fuels Tax Fund to the General Fund and \$2,500.00 from the Liquid Fuels Tax Fund to the Sewer Fund. As of December 31, 2019, the General Fund had only incurred \$9,435.34 of Liquid Fuels Tax Fund related expenditures and the Sewer Fund had only incurred \$1,627.41 of Liquid Fuels Tax Fund related expenditures. Therefore, the amount transferred from the Liquid Fuels Tax Fund to the General Fund exceeded the expenditures incurred by \$564.66 and the amount transferred from the Liquid Fuels Tax Fund to the Sewer Fund exceeded the expenditures incurred by \$872.59.

The practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account in anticipation of future expenditures is contrary to the Act of June 1, 1956, P.L. (1955) 1944, 72 P.S. § 2615.5, known as the Liquid Fuels Tax Municipal Allocation Law, which states:

. . .each city, borough, town and township, shall . . . Establish and maintain a special fund into which the moneys [liquid fuels tax funds] . . . shall be deposited and into which no other moneys may be deposited or commingled . . .

The Council President stated that this occurred because she was in the process of learning the relevant requirements.

Good internal accounting controls ensure that disbursements are made from the Liquid Fuels Tax Fund for only expenditures incurred. When Liquid Fuels Tax Fund money is commingled with the General Fund, or other funds, the potential for Liquid Fuels Tax Fund money to be used for unauthorized purposes increases significantly.

On February 27, 2020, the municipality reimbursed \$1,437.25 to the Liquid Fuels Tax Fund.



BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 3 - Transfers To The General Fund For Anticipated Liquid Fuels Tax Fund Expenditures (Continued)**

Recommendation

We recommend that the municipality only disburse funds from the Liquid Fuels Tax Fund for expenditures incurred.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

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

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 4 - Municipality Expended More Than The Liquid Fuels Tax Fund Balance**

Our examination disclosed that the municipality's Liquid Fuels Tax Fund bank account balance as of December 31, 2020, was \$36.26. However, two checks totaling \$162.26 were issued from November 28, 2020, to November 30, 2020, and were outstanding as of December 31, 2020, making the ending balance in the municipality's Liquid Fuels Tax Fund a negative \$126.00.

The Department of Transportation's Regulation's require municipalities to handle Liquid Fuels Tax Fund money on a year-to-year basis. Municipalities are not permitted to credit current year expenditures with future year's receipts.

The municipality transferred \$500.00 from its General Fund to its Liquid Fuels Tax Fund on January 13, 2021, which was subsequent to our examination period.

The Council President stated that this occurred because she was in the process of learning the relevant requirements.

**Recommendation**

We recommend that the municipality discontinue the practice of expending more than the Liquid Fuels Tax Fund balance.

**Management's Response**

The municipal officials offered no formal response at this time.

**Auditor's Conclusion**

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

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 5 - Late Receipt Of Allocations - Recurring**

Our examination disclosed that the 2018 and 2019 Liquid Fuels Tax Fund allocations of \$12,046.62 and \$12,329.27, respectively, which should have been distributed from the Department of Transportation to the municipality during the first week of March of each year, were not received until July 9, 2018, and November 1, 2019, respectively, because the municipality failed to comply with the Department of Transportation's *Publication 9*, Chapter Two, Section 2.4, which states:

To qualify for the annual liquid fuels tax allocation, a municipality shall:

- Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
- Make deposits and payments or expenditures in compliance with the Act 655. Failure to do so may result in not receiving allocations from PENNDOT until all discrepancies are resolved.
- Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31<sup>st</sup> and the Survey of Financial Condition by March 15<sup>th</sup>.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation's Financial Consultants.

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the 2018 allocation for four months and the 2019 allocation for eight months. Furthermore, had the allocations been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.

The municipality received its 2020 Liquid Fuels Tax Fund allocation on time.

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 5 - Late Receipt Of Allocations - Recurring (Continued)**

Recommendation

We recommend that, in the future, the municipality continues to comply with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in March as outlined above.

Management's Response

The municipal officials offered no formal response at this time.

Auditor's Conclusion

During our next examination, we will determine if the municipality continues to comply with our recommendation.

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

Summary Of Prior Examination Recommendations

In our prior report, we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$3,689.21 to its Liquid Fuels Tax Fund for over expending street lighting costs.

During our current examination, we reviewed a letter dated September 25, 2018, from the Department of Transportation directing the municipality to reimburse \$3,689.21 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on September 20, 2019.

In our prior report, we also recommended that the municipality:

- Improve internal control procedure over disbursements by requiring at least two signatures of unrelated municipal officials on all disbursements from the Liquid Fuel Tax Fund account.
- Follow the Department of Transportation's Regulations by limiting their street lighting expenditures from the Liquid Fuels Tax Fund only to lighting costs which exceed the tax amount collected for street lighting.
- Comply with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in March.

During our current examination, we noted that the municipality complied with our first two bulleted recommendations but did not comply with our third bulleted recommendation until 2020 (see Finding No. 5).

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

An exit conference was not conducted with the management of Ashville Borough, Cambria County. As discussed in our Independent Auditor's Report, we repeatedly request management provide us with a management representation letter, with the last request made via certified mail on August 18, 2022. The President of Council signed for the certified mail on August 25, 2022, but never returned the management representation letter. Included with that request was a request to sign an exit conference memo informing them of the results of our examination. However, management did not return a signed exit conference memo.

BOROUGH OF ASHVILLE  
CAMBRIA COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

This report was initially distributed to:

**The Honorable Yassmin Gramian, P.E.**  
Secretary  
Department of Transportation

**Borough of Ashville**  
Cambria County  
109 Hickory Street  
P.O. Box 165  
Ashville, PA 16613

**The Honorable Nicole De Angelis**  
President of Council

**Ms. Diane Boslet**  
Secretary/Treasurer

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).