



**CITY OF BUTLER
BUTLER COUNTY
10-301**

**LIQUID FUELS TAX FUND
EXAMINATION REPORT**

**FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011**

Released April 2013

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL





CITY OF BUTLER
BUTLER COUNTY
10-301

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

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CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

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.





Commonwealth of Pennsylvania
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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 Butler, Butler County, for the period January 1, 2011 to December 31, 2011. The municipality's management is responsible for the Forms MS-965. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting the City of Butler, Butler County's Forms MS-965 for the period January 1, 2011 to December 31, 2011 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each municipality's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

As described in Note 4, the adjustments included on the Forms MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in Finding No. 2, the city expended \$51,792.39 for the purchase of road salt from a supplier that was not awarded the COSTARS contract.

Independent Auditor's Report (Continued)

In our opinion, except for the matter discussed in the preceding paragraph, 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 Butler, Butler County, for the period January 1, 2011 to December 31, 2011, 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 Butler, Butler 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 Butler, Butler County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the City of Butler, Butler County's internal control. We consider the deficiency described in the finding below to be a significant deficiency in internal control over reporting on the Forms MS-965:

- Idle Funds Held In A Noninterest-Bearing Account.

Independent Auditor's Report (Continued)

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 Butler, Butler County's internal control. Our consideration of the internal control over reporting on the Forms MS-965 would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiency described above is not a material weakness.

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

- Failure To Purchase Salt From The COSTARS Contract Or Advertise For Bids.

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



August 22, 2012

EUGENE A. DEPASQUALE
Auditor General



CITY OF BUTLER
 BUTLER COUNTY
 LIQUID FUELS TAX FUND
 2011 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	719.40	-	719.40
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	217,697.67	-	217,697.67
Traffic control devices	27,731.00	-	27,731.00
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	32,259.25	-	32,259.25
Highway construction and rebuilding projects	50,134.32	-	50,134.32
Miscellaneous (Bank service charges)	121.66	-	121.66
 Total (To Section 2, Line 5)	 <u>\$ 328,663.30</u>	 <u>\$ -</u>	 <u>\$ 328,663.30</u>

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

CITY OF BUTLER
 BUTLER COUNTY
 LIQUID FUELS TAX FUND
 2011 FORM MS-965 – SECTION 2
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2011	\$ 87,999.74	\$ -	\$ 87,999.74
Receipts:			
2. State allocation	305,451.19	-	305,451.19
2a. Turnback allocation	2,160.00	-	2,160.00
2b. Interest on investments (Note 3)	-	-	-
2c. Miscellaneous (Refund for bank service charges)	.50	-	.50
3. Total receipts	<u>307,611.69</u>	<u>-</u>	<u>307,611.69</u>
4. Total funds available	<u>395,611.43</u>	<u>-</u>	<u>395,611.43</u>
5. Expenditures (Section 1)	<u>328,663.30</u>	<u>-</u>	<u>328,663.30</u>
6. Balance, December 31, 2011	<u><u>\$ 66,948.13</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 66,948.13</u></u>

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

CITY OF BUTLER
 BUTLER COUNTY
 LIQUID FUELS TAX FUND
 2011 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 3)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 60,090.78	\$ 27,908.96	\$ 87,999.74
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	61,522.24	-	61,522.24
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	121,613.02	27,908.96	149,521.98
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>121,613.02</u>	<u>27,908.96</u>	<u>149,521.98</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 66,948.13</u>	<u>\$ -</u>	<u>\$ 66,948.13</u>

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

CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

1. Criteria

Section 1

This section of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

- Major equipment purchases are purchases of road machinery and road equipment that cost in excess of \$4,000.00.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00 or less.
- Agility projects are exchanges of services with the Department of Transportation.

Section 2

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

- The state allocation is generally received from the Department of Transportation during the first week in April of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- The turnback allocation is generally received from the Department of Transportation during the first week in April of each year. A municipality receives a yearly turnback allocation based on road mileage for all roads that were transferred to the municipality from the Commonwealth of Pennsylvania through the Highway Transfer Program.
- Expenditures include the total transferred from Section 1.

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.

CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

1. Criteria (Continued)

Section 3 (Continued)

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 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 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.

CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

1. Criteria (Continued)

General Fixed Assets

General fixed assets are recognized as expenditures at the time of purchase. No depreciation has been provided on the heavy equipment used to maintain and repair roads and bridges.

2. Deposits

The 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.

There were no deposits exposed to custodial credit risk as of December 31, 2011. 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.

CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

2. Deposits (Continued)

Fund Balance

The fund balance consists of the following:

Cash	<u>\$66,948.13</u>
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3. Adjustments

Section 3

An adjustment of \$27,908.96 was made to “Prior year equipment balance” because an incorrect equipment balance was carried forward.



CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

Finding No. 1 - Idle Funds Held In A Noninterest-Bearing Account

Our examination disclosed that liquid fuels tax money in excess of current needs was deposited in a noninterest-bearing checking account from January 2011 to December 2011 with an average balance of \$100,813.33.

Sound fiscal management requires that money in excess of current needs be deposited in interest-bearing accounts, certificates of deposit, or other investments as outlined in Section 1804.1 of *The Third Class City Code* as published by the Local Government Commission.

If the city had invested the liquid fuels tax funds in interest-bearing accounts, certificates of deposit, or other investments outlined in Section 1804.1 of *The Third Class City Code* as published by the Local Government Commission, additional money would have been earned for road maintenance and repairs.

Recommendation

We recommend that the city officials reassess their fiscal policy and consider investing money in excess of current needs in investments outlined in Section 1804.1 of *The Third Class City Code* as published by the Local Government Commission.

Management's Response

The city officials offered no formal response at this time.

CITY OF BUTLER
 BUTLER COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
 FOR THE PERIOD
 JANUARY 1, 2011 TO DECEMBER 31, 2011

Finding No. 2 - Failure To Purchase Salt From The COSTARS Contract Or Advertise For Bids

Our examination disclosed that during 2011, the city expended \$51,792.39 for the purchase of road salt as follows:

<u>Product</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
Road Salt	701688	02/11/11	38967	02/25/11	\$25,166.54
Road Salt	701764	02/11/11	38967	02/25/11	8,476.81
Road Salt	703407	02/18/11	1847	03/31/11	18,149.04
Total					<u>\$51,792.39</u>

The city had a contract to purchase road salt through COSTARS, which is a program run by the Pennsylvania Department of General Services (DGS) that permits Local Government entities to make purchases from state contracts. To make purchases from the COSTARS contract, municipalities must register with DGS. Although the city was a registered member of COSTARS, the city did not purchase the road salt through the COSTARS supplier that was awarded the contract. Additionally, the city did not advertise for bids for road salt.

Because the city did not make the purchase from the COSTARS contract, and because the city did not advertise for bids, the above expenditures were not made in compliance with the advertising, bidding, and contract requirements of *The Third Class City Code*, 53 P.S. § 36901(b), (also found at § 1901 of *The Third Class City Code* as published by the Local Government Commission), which requires that purchases over \$10,000.00 must be advertised, bid, and awarded by contract. *The Third Class City Code*, 53 P.S. § 36902, and § 1902 of *The Third Class City 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 expenditures were not made in compliance with the Department of Transportation's *Publication 9*, Appendix D, Section 449.7(d), which states, in part:

Each municipality shall make an annual estimate of its requirements of road construction and maintenance materials, and shall advertise for bids on all items and groups of like items ordinarily supplied by a single supplier . . . which are estimated to exceed \$10,000 for the year If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000 . . . the entire cost shall be ineligible for payment from the Liquid Fuels Tax Fund unless it can be shown to the satisfaction of the Secretary [of the Department of Transportation] that it was reasonably believed that the cost of the year's requirements of that item or group of like items would not exceed \$10,000 . . .

CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

Finding No. 2 - Failure To Purchase Salt From The COSTARS Contract Or Advertise For Bids
(Continued)

The failure to comply with *The Third Class City Code* and the Department of Transportation's *Publication 9* could result in the township having to reimburse \$51,792.39 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the city reimburse \$51,792.39 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township comply with *The Third Class City Code* and the Department of Transportation's *Publication 9* as noted in this finding when it does not purchase materials from COSTARS contracts.

Management's Response

The city officials offered no formal response at this time.

CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANAURY 1, 2011 TO DECEMBER 31, 2011

An exit conference was held August 22, 2012. Those participating were:

CITY OF BUTLER

Ms. Melinda F. Gall, City Clerk

DEPARTMENT OF THE AUDITOR GENERAL

Mr. James F. Fee, Auditor

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

CITY OF BUTLER
BUTLER COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2011

This report was initially distributed to:

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

City of Butler
Butler County
140 West North Street
Butler, PA 16001-5298

The Honorable Margaret D. Stock

Mayor

Ms. Melinda F. Gall

City Clerk

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at www.auditorgen.state.pa.us.