

ATTESTATION ENGAGEMENT

Township of Clay
Huntingdon County, Pennsylvania
31-205
Liquid Fuels Tax Fund
For the Period
January 1, 2015 to December 31, 2016

August 2017



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



Commonwealth of Pennsylvania
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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Leslie Richards
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Clay, Huntingdon County, for the period January 1, 2015 to December 31, 2016. The municipality's management is responsible for presenting the Forms MS-965 in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms MS-965 are fairly stated based on the criteria, in all material respects. An examination involves performing procedures to obtain evidence about the Forms MS-965. The nature, timing and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of the Forms MS-965, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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.

Independent Auditor's Report (Continued)

As discussed in the Findings and Recommendations section of this report:

- The municipality deposited \$14,450.00 of Liquid Fuels Tax Fund money into the General Fund on September 4, 2015 (see Finding No. 1).
- The township over expended \$29,450.00 of Liquid Fuels Tax Fund on Project No. 16-31-205-01 (see Finding No. 2).
- The municipality expended \$29,450.00 during 2015 from its Liquid Fuels Tax Fund road preparation for project No. 16-31-205-01 without advertising for bids. These are the same expenditures described in Finding No. 2. (see Finding No. 3).
- The municipality expended \$11,000.00 of Liquid Fuels Tax Fund money during 2015 for shale, which is a nonpermissible expenditure. These expenditures are also included in Finding Nos. 2 and 3 (see Finding No. 4).
- The municipality expended \$1,990.00 of Liquid Fuels Tax Fund money for a related party transaction during 2015 (see Finding No. 5).

In our opinion, except for the bulleted matters discussed above, 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 Township of Clay, Huntingdon County, for the period January 1, 2015 to December 31, 2016, in conformity with the criteria set forth in Note 1.

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 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.

Our consideration of internal control 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 and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of the Township of Clay, Huntingdon 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. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Liquid Fuels Money Deposited Into General Fund.
- Liquid Fuels Money Over Expended On Project.
- Noncompliance With Advertising And Bidding Requirements.
- Nonpermissible Expenditure.
- Related Party Transaction.

The purpose of this report is to determine whether the municipality's Liquid Fuels Tax Fund money is spent in accordance with the laws and regulations identified in the Background section of this report and the Department of Transportation's *Publication 9*. This report is not suitable for any other purpose.

We appreciate the courtesy extended by the Township of Clay, Huntingdon 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

August 1, 2017

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TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

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.

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

Background (Continued)

3. Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition By March 15th.
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.

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
2015 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	\$ 10,105.30	\$ -	\$ 10,105.30
Minor equipment purchases	1,990.00	-	1,990.00
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	1,108.14	-	1,108.14
Traffic control devices	159.20	-	159.20
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	2,138.75	-	2,138.75
Maintenance and repair of roads and bridges	32,592.18	(29,450.00)	3,142.18
Highway construction and rebuilding projects	-	29,450.00	29,450.00
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 48,093.57</u>	 <u>\$ -</u>	 <u>\$ 48,093.57</u>

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
2015 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, 2015	\$ 17,765.40	\$ -	\$ 17,765.40
Receipts:			
2. State allocation	74,680.97	-	74,680.97
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	145.89	-	145.89
2c. Miscellaneous	-	-	-
3. Total receipts	<u>74,826.86</u>	<u>-</u>	<u>74,826.86</u>
4. Total funds available	<u>92,592.26</u>	<u>-</u>	<u>92,592.26</u>
5. Expenditures (Section 1)	<u>48,093.57</u>	<u>-</u>	<u>48,093.57</u>
6. Balance, December 31, 2015	<u>\$ 44,498.69</u>	<u>\$ -</u>	<u>\$ 44,498.69</u>

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
2015 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	\$ 13,533.36	\$ -	\$ 13,533.36
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	14,936.19	-	14,936.19
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	28,469.55	-	28,469.55
5. Less: Major equipment expenditures	<u>10,105.30</u>	<u>-</u>	<u>10,105.30</u>
6. Remainder	<u>18,364.25</u>	<u>-</u>	<u>18,364.25</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 18,364.25</u>	<u>\$ -</u>	<u>\$ 18,364.25</u>

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
2016 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 12,126.36	\$ -	\$ 12,126.36
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	770.84	-	770.84
Traffic control devices	270.36	-	270.36
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	1,735.70	-	1,735.70
Maintenance and repair of roads and bridges	6,836.93	-	6,836.93
Highway construction and rebuilding projects	59,390.15	-	59,390.15
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 81,130.34</u>	 <u>\$ -</u>	 <u>\$ 81,130.34</u>

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
2016 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, 2016	\$ 44,498.69	\$ -	\$ 44,498.69
Receipts:			
2. State allocation	86,588.60	-	86,588.60
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	171.71	-	171.71
2c. Miscellaneous	-	-	-
3. Total receipts	<u>86,760.31</u>	<u>-</u>	<u>86,760.31</u>
4. Total funds available	<u>131,259.00</u>	<u>-</u>	<u>131,259.00</u>
5. Expenditures (Section 1)	<u>81,130.34</u>	<u>-</u>	<u>81,130.34</u>
6. Balance, December 31, 2016	<u>\$ 50,128.66</u>	<u>\$ -</u>	<u>\$ 50,128.66</u>

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
2016 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	\$ 18,364.25	\$ -	\$ 18,364.25
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	17,317.72	-	17,317.72
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	35,681.97	-	35,681.97
5. Less: Major equipment expenditures	<u>12,126.36</u>	<u>-</u>	<u>12,126.36</u>
6. Remainder	<u>23,555.61</u>	<u>-</u>	<u>23,555.61</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 23,555.61</u>	<u>\$ -</u>	<u>\$ 23,555.61</u>

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

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:

2012	2013	2014	2015/2016
\$10,000.00	\$10,200.00	\$10,300.00	\$10,500.00

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

2012	2013	2014	2015/2016
\$10,000.00	\$10,200.00	\$10,300.00	\$10,500.00

- 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 was received from the Department of Transportation in March of each year beginning in 2014. The amount the municipality receives is based half on its population and half on its road mileage.
- The turnback allocation was received from the Department of Transportation in March of each year beginning in 2014. 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 CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

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 CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

1. Criteria (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 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 CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

2. Deposits (Continued)

There were no deposits exposed to custodial credit risk as of December 31, 2016. Custodial credit risk, as defined by GASB No. 40, as amended, 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, 2016, consists of the following:

Cash	<u>\$50,128.66</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 \$145.89 during 2015, and \$171.71 during 2016, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2015 - Section 1

Adjustments were made to "Maintenance and repair of roads and bridges" and "Highway construction and rebuilding projects" because expenditures of \$29,450.00 were misclassified.

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

5. Bank Loan

On September 23, 2014, the municipality purchased a 2014 Case backhoe for \$65,250.00. The municipality made a down payment of \$10,000.00 from the Liquid Fuels Tax Fund. The municipality borrowed the remaining \$55,250.00 from Community State Bank. The term of the loan was for five years at an interest rate of 3.71 percent. Principal and interest payments of \$1,010.53 are due monthly. Prior years' principal and interest payments from the General Fund were \$2,573.04 and \$458.55, respectively.

During the current examination period, the municipality paid principal of \$19,408.12 and interest of \$2,823.54 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2015 and 2016 Forms MS-965 - Section 1. Additionally, the municipality paid principal of \$1,681.44 and interest of \$339.62 from the General Fund. The outstanding balance of the loan as of December 31, 2016 was \$31,587.40, plus interest.

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

Finding No. 1 - Liquid Fuels Money Deposited Into The General Fund

Our examination disclosed that the municipality received a grant of \$14,450.00 from the Huntingdon County Conservation district for project No. 16-31-205-01, and this amount was deposited into the General Fund on September 4, 2015. Because the project was paid from the Liquid Fuels Tax Fund, the grant should have been deposited into the Liquid Fuels Tax Fund.

The practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account 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 risk that Liquid Fuels Tax Fund money may be used for unauthorized purposes increases when liquid fuels money is commingled with other funds.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law as noted above could result in the municipality having to reimburse \$14,450.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$14,450.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We recommend that, in the future, the municipality deposit all liquid fuels tax money promptly into the Liquid Fuels Tax Fund.

Management's Response

The secretary/treasurer officials stated:

We discussed and it wasn't intentional.

Auditor's Conclusion

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

Finding No. 2 - Liquid Fuels Money Over Expended On Project

Our examination disclosed that the municipality expended \$29,450.00 during 2015 and \$59,390.15 during 2016 for a total of \$88,840.15 of Liquid Fuels Tax Fund money on construction project No. 16-31-205-01. However, the amount of Liquid Fuels Tax Fund money approved by the Department of Transportation to be expended from the Liquid Fuels Tax Fund for this project was \$59,390.15. The difference of \$29,450.00 should have been paid directly from the General Fund.

The Department of Transportation's Regulations do not permit a municipality to expend Liquid Fuels Tax Fund money in excess of the amount approved on Municipal Services Completion Report Form MS-999.

The failure to comply with the Department of Transportation's Regulations could result in the municipality having to reimburse \$29,450.00 to its Liquid Fuels Tax Fund.

These expenditures are the same expenditures as those described in Finding No. 3.

Recommendations

We recommend that the municipality reimburse \$29,450.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality expend only the approved amount of Liquid Fuels Tax Fund money on road construction projects.

Management's Response

The secretary/treasurer stated:

We discussed and it wasn't intentional.

Auditor's Conclusion

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

Finding No. 3 - Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the township expended \$29,450.00 during 2015 from the Liquid Fuels Tax Fund for road preparation for project No. 16-31-205-01 without advertising for bids. These expenditures were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
611414	08/11/15	1755	08/13/15	\$ 3,450.00
687759	08/10/15	1756	08/13/15	11,000.00
611423	N/A	1755	10/14/15	7,500.00
611424	N/A	1756	10/30/15	7,500.00
Total				\$29,450.00

The above expenditures were not 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 \$18,500.00 during 2012 must be advertised, bid, and awarded by contract. The bidding threshold increased to purchases over \$19,400.00 for 2015 and 2016. *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.

The failure to comply with *The Second Class Township Code* could result in the township having to reimburse \$29,450.00 to its Liquid Fuels Tax Fund.

These are the same expenditures as described in Finding No. 2.

Recommendations

If the Department of Transportation does not require reimbursement for Finding No. 2, we recommend that the township reimburse \$29,450.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township complies with *The Second Class Township Code* as noted in this finding.

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

Finding No. 3 - Noncompliance With Advertising And Bidding Requirements (Continued)

Management's Response

The secretary/treasurer stated:

We discussed and it wasn't intentional.

Auditor's Conclusion

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

Finding No. 4 - Nonpermissible Expenditure

Our examination disclosed that the municipality expended \$11,000.00 during 2015 from the Liquid Fuels Tax Fund for the purchase of shale used for subbase, which is a nonpermissible expenditure.

Stone approved by the Department of Transportation are listed in the Department of Transportation Specifications *Publication 408*, Section 703.2. Shale is not approved for use as subbase in *Publication 408*.

The failure to purchase stone that is approved by the Department of Transportation could result in the municipality having to reimburse \$11,000.00 to its Liquid Fuels Tax Fund.

These expenditures are also included in Finding Nos. 2 and 3.

Recommendations

If the Department of Transportation does not require reimbursement for Finding Nos. 2 and 3, we recommend that the municipality reimburse \$11,000.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality purchase stone that is approved by the Department of Transportation.

Management's Response

The secretary/treasurer stated:

We discussed and it wasn't intentional.

Auditor's Conclusion

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

Finding No. 5 - Related Party Transaction

Our examination disclosed that the township expended \$1,990.00 during 2015 from the Liquid Fuels Tax Fund for the purchase of a road sweeper. The sweeper was purchased from the township's roadmaster. Due to roadmaster's financial interest in the company and the lack of an open and public award process, this purchase appears to violate *The Second Class Township Code* and The Public Official and Employee Ethics Act. Therefore, it should not have been entered into by the township.

The Second Class Township Code, 53 P.S. § 68102(i), as amended, states, in part:

No township official, either elected or appointed, or township employee who knows, or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any supplies or materials for the use of the township or for any work to be done for such township involving the expenditure by the township of more than five hundred dollars (\$500.00) in any year unless the contract is awarded through the public bid process. This limitation does not apply if the officer or appointee of the township is an employee of the person, firm or corporations to which the money is to be paid in a capacity with no possible influence on the transaction and the officer cannot possibly be benefited thereby, either financially or otherwise. If a supervisor is within this exception, the supervisor shall so inform the board of supervisors and refrain from voting on the payments and shall in no manner participate in the contract. . . .

This information is also published in § 3102(i) of *The Second Class Township Code* as published by the Local Government Commission.

The Public Official and Employee Ethics Act ("Ethics Act"), 65 P.S. 1103(f), states, in part:

No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at \$500 or more with any person who has been awarded a contract with the governmental body with which the public official or public employee is associated, unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

Finding No. 5 - Related Party Transaction (Continued)

Because this purchase violates *The Second Class Township Code* and the Ethics Act, the township could be required by the Pennsylvania Department of Transportation to reimburse \$1,990.00 to its Liquid Fuels Tax Fund.

Copies of this finding will be forwarded to the Pennsylvania Department of Transportation and the State Ethics Commission for their review and whatever action they may deem appropriate.

Recommendations

We recommend that the township reimburse \$1,990.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township complies with *The Second Class Township Code* and the Ethics Act.

Management's Response

The secretary/treasurer stated:

We discussed and it wasn't intentional

Auditor's Conclusion

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

An exit conference was held July 6, 2017. Those participating were:

TOWNSHIP OF CLAY

Ms. Linda Greenland, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. David R. Brown, Audit Supervisor

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

TOWNSHIP OF CLAY
HUNTINGDON COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2016

This report was initially distributed to:

The Honorable Leslie Richards
Secretary
Department of Transportation

Mr. Robert Caruso
Executive Director
State Ethics Commission
Room 309 Finance Building
P.O. Box 11470
Harrisburg, PA 17108

Township of Clay
Huntingdon County
21188 Dug Hill Road
Three Springs, PA 17264

The Honorable Randy A. Watkins
Chairman of the Board of Supervisors

Ms. Linda Greenland
Secretary/Treasurer

This report is a matter of public record and is available online at 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.