



**TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
21-214**

**LIQUID FUELS TAX FUND  
EXAMINATION REPORT**

**FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011**

*Released June 2013*

**COMMONWEALTH OF PENNSYLVANIA**

**EUGENE A. DEPASQUALE - AUDITOR GENERAL**

**DEPARTMENT OF THE AUDITOR GENERAL**





TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
21-214

LIQUID FUELS TAX FUND  
EXAMINATION REPORT

FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

## CONTENTS

	<u>Page</u>
Background.....	1
Independent Auditor's Report.....	2
Financial Section:	
2010 Form MS-965 With Adjustments .....	5
2011 Form MS-965 With Adjustments .....	8
Notes To Forms MS-965 With Adjustments.....	11
Findings And Recommendations:	
Finding No. 1 - Authorized Check Signers Are Related .....	16
Finding No. 2 - Township Purchased Materials That Were Not Bid .....	17
Summary Of Exit Conference.....	20
Report Distribution .....	21

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2010 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  
Department of the Auditor General  
Harrisburg, PA 17120-0018  
Facebook: Pennsylvania Auditor General  
Twitter: @PAAuditorGen

**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 Township of South Newton, Cumberland County, for the period January 1, 2010 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 Township of South Newton, Cumberland County's Forms MS-965 for the period January 1, 2010 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.

### Independent Auditor's Report (Continued)

As discussed in Finding No. 2, the township expended \$35,000.00 from the Liquid Fuels Tax Fund for the purchase of 9.5mm and 25mm Super pave without advertising for bids.

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 Township of South Newton, Cumberland County, for the period January 1, 2010 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 Township of South Newton, Cumberland County's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the Township of South Newton, Cumberland County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of South Newton, Cumberland 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:

- Authorized Check Signers Are Related.

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 Township of South Newton, Cumberland 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. We consider the significant deficiency described above to be a material weakness.

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

- Township Purchased Materials That Were Not Bid.

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



November 30, 2012

**EUGENE A. DEPASQUALE**  
Auditor General

TOWNSHIP OF SOUTH NEWTON  
 CUMBERLAND COUNTY  
 LIQUID FUELS TAX FUND  
 2010 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 33,550.00	\$ -	\$ 33,550.00
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	-	-
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 33,550.00</u>	<u>\$ -</u>	<u>\$ 33,550.00</u>

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



TOWNSHIP OF SOUTH NEWTON  
 CUMBERLAND COUNTY  
 LIQUID FUELS TAX FUND  
 2010 FORM MS-965 – SECTION 2  
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2010	\$ 55,259.14	\$ -	\$ 55,259.14
Receipts:			
2. State allocation	43,118.79	-	43,118.79
2a. Turnback allocation	1,160.00	-	1,160.00
2b. Interest on investments (Note 3)	49.10	-	49.10
2c. Miscellaneous (Note 5)	-	452.38	452.38
3. Total receipts	<u>44,327.89</u>	<u>452.38</u>	<u>44,780.27</u>
4. Total funds available	<u>99,587.03</u>	<u>452.38</u>	<u>100,039.41</u>
5. Expenditures (Section 1)	<u>33,550.00</u>	<u>-</u>	<u>33,550.00</u>
6. Balance, December 31, 2010	<u>\$ 66,037.03</u>	<u>\$ 452.38</u>	<u>\$ 66,489.41</u>

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

TOWNSHIP OF SOUTH NEWTON  
 CUMBERLAND COUNTY  
 LIQUID FUELS TAX FUND  
 2010 FORM MS-965 – SECTION 3  
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 27,405.58	\$ 3,719.36	\$ 31,124.94
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	8,855.76	-	8,855.76
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	36,261.34	3,719.36	39,980.70
5. Less: Major equipment expenditures	33,550.00	-	33,550.00
6. Remainder	<u>2,711.34</u>	<u>3,719.36</u>	<u>6,430.70</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 2,711.34</u>	<u>\$ 3,719.36</u>	<u>\$ 6,430.70</u>

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

TOWNSHIP OF SOUTH NEWTON  
 CUMBERLAND COUNTY  
 LIQUID FUELS TAX FUND  
 2011 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	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	35,000.00	75,795.75	110,795.75
Highway construction and rebuilding projects	75,795.75	(75,795.75)	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 110,795.75</u>	 <u>\$ -</u>	 <u>\$ 110,795.75</u>

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

TOWNSHIP OF SOUTH NEWTON  
 CUMBERLAND COUNTY  
 LIQUID FUELS TAX FUND  
 2011 FORM MS-965 – SECTION 2  
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2011	\$ 66,037.03	\$ 452.38	\$ 66,489.41
Receipts:			
2. State allocation	44,132.89	-	44,132.89
2a. Turnback allocation	1,160.00	-	1,160.00
2b. Interest on investments (Note 3)	27.21	-	27.21
2c. Miscellaneous	-	-	-
3. Total receipts	<u>45,320.10</u>	<u>-</u>	<u>45,320.10</u>
4. Total funds available	<u>111,357.13</u>	<u>452.38</u>	<u>111,809.51</u>
5. Expenditures (Section 1)	<u>110,795.75</u>	<u>-</u>	<u>110,795.75</u>
6. Balance, December 31, 2011	<u>\$ 561.38</u>	<u>\$ 452.38</u>	<u>\$ 1,013.76</u>

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

TOWNSHIP OF SOUTH NEWTON  
 CUMBERLAND COUNTY  
 LIQUID FUELS TAX FUND  
 2011 FORM MS-965 – SECTION 3  
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 2,711.34	\$ 3,719.36	\$ 6,430.70
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	9,058.58	-	9,058.58
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	11,769.92	3,719.36	15,489.28
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>11,769.92</u>	<u>3,719.36</u>	<u>15,489.28</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 561.38</u>	<u>\$ 452.38</u>	<u>\$ 1,013.76</u>

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

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2010 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.

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2010 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 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.

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.

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2010 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 Second Class Township Code*, Title 53 P.S. § 68204, authorizes the township to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit purchased from institutions insured by the FDIC or other like insurance to the extent that such accounts are so insured. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loan's or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in a financial institution. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

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.



TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

2. Deposits (Continued)

Fund Balance

The fund balance as of December 31, 2011 consists of the following:

Cash	<u>\$1,013.76</u>
------	-------------------

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$49.10 during 2010, and \$27.21 during 2011, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2010 - Section 2

An adjustment of \$452.38 was made to "Miscellaneous" because a refund for fuel sales tax from the Commonwealth of Pennsylvania was not reported.

2010 - Section 3

An adjustment of \$3,719.36 was made to "Prior year equipment balance" because prior report adjustments were not carried forward in the equipment balance.

2011 - Section 1

Adjustments were made to "Maintenance and repair of roads and bridges" and "Highway construction and rebuilding projects" because expenditures of \$75,795.75 were misclassified.

2011 - Section 2

An adjustment of \$452.38 was made to "Balance, January 1, 2011" to reflect the adjustment made to the fund balance in 2010 - Section 2.

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

4. Adjustments (Continued)

2011 - Section 3

An adjustment of \$3,719.36 was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2010 - Section 3.

5. Miscellaneous Receipts

On March 4, 2010, the municipality deposited \$452.38 into its Liquid Fuels Tax Fund that was received from the Commonwealth of Pennsylvania for a refund for sales tax.

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 1 - Authorized Check Signers Are Related

Our audit disclosed that the signatures required to authenticate Liquid Fuels Tax Fund checks are that of the chairman of the board and the secretary/treasurer who are married.

Good internal control procedures ensure that at least two unrelated persons are authorized to sign checks drawn on the Liquid Fuels Tax Fund. Without this control, the risk of unauthorized disbursements, errors, or misappropriations occurring and remaining undetected increases significantly.

Recommendation

We recommend that the municipality improve control procedures over disbursements by requiring at least township signatures of unrelated municipal officials on all disbursements from the Liquid Fuels Tax Fund account.

Management's Response

The solicitor for the township stated:

The Chairman, David E. Durff, and the Secretary/Treasurer, Trena R. Durff, have never been the sole signors of any Liquid Fuels checks. To avoid any future concerns, the supervisors of South Newton Township have adopted a policy of requiring three (3) signatures on the Commonwealth's Liquid Fuels account. In that manner, there will always be at least two (2) supervisors signing any Liquid Fuels check.

Auditor's Conclusion

The municipal officials should ensure that they file a new signature card with its financial institution requiring three signatures to authorize Liquid Fuels Tax Fund checks. During our next examination we will determine if the municipality complied with our recommendation.

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 2 - Township Purchased Materials That Were Not Bid

Our examination disclosed that on various days during April and May of 2011 the township advertised for bids for FB-2 wearing, which is a paving material, and single bituminous seal coat, which is a road oil. The township awarded a bid for FB-2 wearing and single bituminous seal coat on May 17, 2011. The total amount of the contract was for \$77,402.00. The township paid an invoice dated September 2, 2011 for \$75,795.75 for the purchase of FB-2 wearing and single bituminous seal coat.

Additionally, on December 18, 2011, the township expended \$35,000.00 from its Liquid Fuels Tax Fund for an invoice from the same vendor dated November 21, 2011, for 25mm and 9.5mm Super pave, which are different types of paving materials. However, the township did not advertise for bids for the 25mm and 9.5mm Super pave.

The above expenditure was 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 \$10,000.00 must be advertised, bid, and awarded by contract. *The Second Class Township Code*, 53 P.S. § 68104(a), (also found at § 3104(a) of *The Second Class Township Code* as published by the Local Government Commission) further states that advertising, bidding and contract requirements should not be evaded through piecemeal purchases.

In addition, the above expenditure was not made in compliance with the Department of Transportation's *Publication 9*, Appendix D, Section 449.7(d), which states, in part:

Each municipality shall make an annual estimate of its requirements of road construction and maintenance materials, and shall advertise for bids on all items and groups of like items ordinarily supplied by a single supplier . . . which are estimated to exceed \$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 . . .

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 2 - Township Purchased Materials That Were Not Bid (Continued)

The failure to comply with *The Second Class Township Code* and the Department of Transportation's *Publication 9* could result in the township having to reimburse \$35,000.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$35,000.00 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 Second Class Township Code* and the Department of Transportation's *Publication 9* as noted in this finding.

Management's Response

The secretary/treasurer stated:

We, the township, would disagree on the difference between FB2 wearing and 25mm and 9.5mm. All materials used were to smooth the road surface and did not add top to the roads.

The bid was sent to our municipal services representative for review and approved as submitted. The contractor completed the road work to our satisfaction with the best product for the money, to our taxpayers.

There seems to be a technical issue between the way the bid was written and how the invoice was billed.

Bottom line for the township would be that we advertised one bid for the year, received one bidder, received and paid with two invoices for completion of the job. The supervisors and the taxpayers feel that the job was done well. We feel the technical aspects of wording does not change the end result.

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 2 - Township Purchased Materials That Were Not Bid (Continued)

Auditor's Conclusion

FB-2 wearing and 25mm and 9.5mm Super pave are different products and must be advertised separately. Additionally, the contract for FB-2 wearing and single bituminous seal coat was for \$77,402.00. The township expended \$75,795.75 for these products. It appears that the contract was satisfied. The additional cost of \$35,000.00 for the 25mm and 9.5mm Super pave was not part of that contract.

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

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

An exit conference was held November 30, 2012. Those participating were:

TOWNSHIP OF SOUTH NEWTON

The Honorable David E. Durff, Chairman of the Board of Supervisors  
Mrs. Trena R. Durff, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Diane A. Bowman, Auditor  
Mr. Ryan Shrauder, Auditor

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

TOWNSHIP OF SOUTH NEWTON  
CUMBERLAND COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2011

This report was initially distributed to:

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

Township of South Newton  
Cumberland County  
P. O. Box 11  
11 High Mountain Road  
Walnut Bottom, PA 17266

The Honorable David E. Durff

Chairman of the Board of Supervisors

Mrs. Trena R. Durff

Secretary/Treasurer

This report is a matter of public record and is available online at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).  
Media questions about the report can be directed to the Pennsylvania Department of the Auditor  
General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to:  
[news@auditorgen.state.pa.us](mailto:news@auditorgen.state.pa.us).