



TOWNSHIP OF ELDRED
JEFFERSON COUNTY
33-205

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

CONTENTS

	<u>Page</u>
Background.....	1
Independent Auditor's Report.....	3
Financial Section:	
2008 Form MS-965 With Adjustments	7
2009 Form MS-965 With Adjustments	10
Notes To Forms MS-965 With Adjustments.....	13
Findings And Recommendations:	
Finding No. 1 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements	17
Finding No. 2 - Purchases Made From Vendors That Were Not Awarded Contract.....	19
Finding No. 3 - Related Party Transactions	21
Comment.....	23
Summary Of Exit Conference.....	24
Report Distribution	25

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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.





**Department of the Auditor General
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER
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 Eldred, Jefferson County, for the two years ended December 31, 2009. 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 Eldred, Jefferson County's Forms MS-965 for the two years ended December 31, 2009 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. 1, the township expended a total of \$22,147.12 from its Liquid Fuels Tax Fund for multiple purchases of cold patch without advertising for bids. Additionally, as discussed in Finding No. 2, the township expended \$5,595.88 for the multiple purchases of aggregate from vendors that were not awarded the contract. Also, as discussed in Finding No. 3 the township had related party transactions of \$847.10.

In our opinion, except for the matters 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 Eldred, Jefferson County, for the two years ended December 31, 2009, 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 Eldred, Jefferson 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 Eldred, Jefferson County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Eldred, Jefferson County's internal control.

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 Eldred, Jefferson County's internal control.

Our consideration of internal control over reporting on the Forms MS-965 was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Forms MS-965.

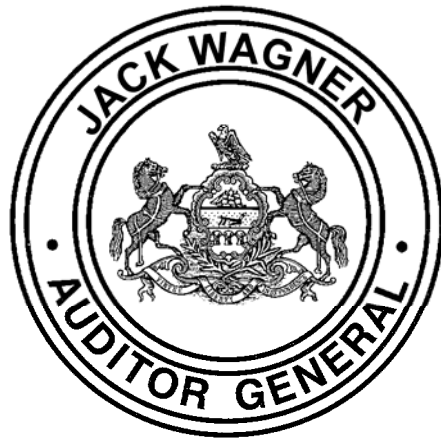
The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements.
- Purchases Made From Vendors That Were Not Awarded Contract.
- Related Party Transactions.

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

December 2, 2010

JACK WAGNER
Auditor General



TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
2008 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ 37,812.50	\$ -	\$ 37,812.50
Minor equipment purchases	838.31	-	838.31
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	5,228.26	-	5,228.26
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	17,952.10	-	17,952.10
Maintenance and repair of roads and bridges	116,811.95	-	116,811.95
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 178,643.12</u>	 <u>\$ -</u>	 <u>\$ 178,643.12</u>

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
2008 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, 2008	\$ 25,735.00	\$ -	\$ 25,735.00
Receipts:			
2. State allocation	111,607.28	-	111,607.28
2a. Turnback allocation	31,840.00	-	31,840.00
2b. Interest on investments (Note 3)	988.86	-	988.86
2c. Miscellaneous (Note 5)	<u>10,000.00</u>	<u>-</u>	<u>10,000.00</u>
3. Total receipts	<u>154,436.14</u>	<u>-</u>	<u>154,436.14</u>
4. Total funds available	<u>180,171.14</u>	<u>-</u>	<u>180,171.14</u>
5. Expenditures (Section 1)	<u>178,643.12</u>	<u>-</u>	<u>178,643.12</u>
6. Balance, December 31, 2008	<u><u>\$ 1,528.02</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 1,528.02</u></u>

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
2008 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	\$ 25,735.00	\$ -	\$ 25,735.00
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	28,689.45	-	28,689.45
3. PENNDOT approved adjustments	<u>-</u>	<u>10,000.00</u>	<u>10,000.00</u>
4. Total funds available for equipment acquisition	54,424.45	10,000.00	64,424.45
5. Less: Major equipment expenditures	<u>37,812.50</u>	<u>-</u>	<u>37,812.50</u>
6. Remainder	<u><u>16,611.95</u></u>	<u><u>10,000.00</u></u>	<u><u>26,611.95</u></u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u><u>\$ 1,528.02</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 1,528.02</u></u>

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
2009 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	1,419.38	-	1,419.38
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	211.07	-	211.07
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	11,259.58	-	11,259.58
Maintenance and repair of roads and bridges	127,742.58	-	127,742.58
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 140,632.61</u>	 <u>\$ -</u>	 <u>\$ 140,632.61</u>

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
2009 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, 2009	\$ 1,528.02	\$ -	\$ 1,528.02
Receipts:			
2. State allocation	107,356.66	-	107,356.66
2a. Turnback allocation	31,840.00	-	31,840.00
2b. Interest on investments (Note 3)	208.10	-	208.10
2c. Miscellaneous	-	-	-
3. Total receipts	<u>139,404.76</u>	<u>-</u>	<u>139,404.76</u>
4. Total funds available	<u>140,932.78</u>	<u>-</u>	<u>140,932.78</u>
5. Expenditures (Section 1)	<u>140,632.61</u>	<u>-</u>	<u>140,632.61</u>
6. Balance, December 31, 2009	<u><u>\$ 300.17</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 300.17</u></u>

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
2009 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	\$ 1,528.02	\$ -	\$ 1,528.02
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	27,839.33	-	27,839.33
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	29,367.35	-	29,367.35
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>29,367.35</u>	<u>-</u>	<u>29,367.35</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 300.17</u>	<u>\$ -</u>	<u>\$ 300.17</u>

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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 ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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 ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

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, 2009. 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 ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-965 WITH ADJUSTMENTS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

2. Deposits (Continued)

Fund Balance

The fund balance as of December 31, 2009 consists of the following:

Cash	<u>\$300.17</u>
------	-----------------

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in interest-bearing accounts which earned \$988.86 during 2008, and \$208.10 during 2009, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2008 – Section 3

An adjustment of \$10,000.00 was made to “PENNDOT approved adjustments” because the proceeds from the sale of a grader were not reported.

5. Miscellaneous

On July 1, 2008, the municipality deposited \$10,000.00 into its Liquid Fuels Tax Fund that was received from a local business for the sale of a grader.

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 1 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that during 2009 the township expended \$22,147.12 from the Liquid Fuels Tax Fund for the purchase of cold patch 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>
1577	04/13/09	2824	05/27/09	\$ 2,443.29
1623	04/29/09	2824	05/27/09	4,116.54
1883	06/24/09	2848	07/13/09	151.11
1997	07/13/09	2863	08/10/09	5,740.80
5777	07/13/09	2864	08/10/09	678.30
5794	07/13/09	2864	08/10/09	2,106.30
5790	07/15/09	2864	08/10/09	2,627.10
5800	07/20/09	2864	08/10/09	687.40
2100	09/09/09	2883	09/16/09	3,367.89
2277	10/09/09	2899	10/19/09	70.38
2414	11/03/09	2910	12/02/09	<u>158.01</u>
Total				<u>\$22,147.12</u>

The above purchases 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 \$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 purchases were not made in compliance with the Department of Transportation's *Publication 9*, Appendix D, Section 449.7(d), which states, in part:

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 1 - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements (Continued)

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 . . .

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 \$22,147.12 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$22,147.12 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:

The finding is appropriate.

Auditor's Conclusion

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 2 - Purchases Made From Vendors That Were Not Awarded Contract

Our examination disclosed that on February 3, 2009, the township opened bids for 1B Stone and driving surface aggregate (DSA) and awarded bids to the lowest responsible bidders at \$18.50 per ton and \$17.00 per ton, respectively.

However, the township expended \$1,162.31 for 1B Stone and \$4,084.37 for DSA from vendors that were not awarded contracts. These expenditures were as follows:

<u>Product</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
DSA	11910	04/25/09	2826	05/27/09	833.40
DSA	11932	05/05/09	2826	05/27/09	1,265.22
DSA	1489	06/12/09	2842	06/29/09	1,985.75
1 B Stone	None	06/23/09	2855	07/13/09	291.23
1 B Stone	None	06/22/09	2855	07/13/09	<u>871.08</u>
Total					<u>\$5,246.68</u>

Although the price differential was minimal, the township did not comply with *The Second Class Township Code 53 P.S. § 68102*, which states:

All contracts or purchases in excess of the required amount of ten thousand dollars (\$10,000.00)...shall not be made except with and from the lowest responsible bidder...

The failure to comply with *The Second Class Township Code* could result in the township having to reimburse \$5,246.68 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the township reimburse \$5,246.68 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* as noted in this finding.

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 2 - Purchases Made From Vendors That Were Not Awarded Contract (Continued)

Management's Response

The secretary/treasurer stated:

The finding is appropriate.

Auditor's Conclusion

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 3 - Related Party Transactions

Our examination disclosed that the township expended \$847.10 from the Liquid Fuels Tax Fund during 2009 for the maintenance and repair of township equipment to a business that was owned by a township supervisor. Due to the supervisor's financial interest in the company and the lack of an open and public award process, these contracts appear to violate *The Second Class Township Code* and The Public Official and Employee Ethics Act. Therefore, they 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 employe 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 employe 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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 3 - Related Party Transactions (Continued)

supervisory or overall responsibility for the implementation or administration of the contract.

Because these contracts violate *The First Class Township Code* and the Ethics Act the township could be required by the Pennsylvania Department of Transportation to reimburse \$847.10 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 \$847.10 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* the Ethics Act as amended.

Management's Response

The secretary/treasurer stated:

The finding is appropriate.

Auditor's Conclusion

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Comment – 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 \$15,597.22 to its Liquid Fuels Tax Fund for the failure to maintain fuel dispensation records.

During our current examination we reviewed a letter dated December 14, 2009, from the Department of Transportation informing the municipality that the reimbursement of \$15,597.22 would not be required.

In our prior report we also recommended that the municipality prepare detailed fuel usage reports to ensure good internal controls over fuel purchases and usage.

During our current examination we noted that the municipality complied with our recommendation.

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

An exit conference was held December 2, 2010. Those participating were:

TOWNSHIP OF ELDRED

The Honorable Michael H. Caldwell, Chairman of the Board of Supervisors
Ms. Deborah A. Gillung, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Christopher Heglen, Auditor

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

TOWNSHIP OF ELDRED
JEFFERSON COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

This report was initially distributed to:

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

Mr. John J. Contino
Executive Director
Pennsylvania State Ethics Commission

Township of Eldred
Jefferson County
137 Greeley Road
Brookville, PA 15825

The Honorable Michael H. Caldwell

Chairman of the Board of Supervisors

Ms. Deborah A. Gillung

Secretary/Treasurer

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, 318 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.