



**BOROUGH OF LUZERNE
LUZERNE COUNTY
40-418**

**LIQUID FUELS TAX FUND
EXAMINATION REPORT**

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

Released April 2013

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL



BOROUGH OF LUZERNE
LUZERNE COUNTY
40-418

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE PERIOD
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BOROUGH OF LUZERNE
LUZERNE 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.





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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Barry J. Schoch, P.E.
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Luzerne, Luzerne 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 Borough of Luzerne, Luzerne 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. 1, the borough expended \$6,373.47 during 2010 from the Liquid Fuels Tax Fund for multiple purchases of ice control without maintaining documentation of price quotations. Additionally, as discussed in Finding No. 2, the borough expended \$1,836.45 during 2011 from the Liquid Fuels Tax Fund for the purchase of clearlane enhanced deicer, which is a nonpermissible expenditure.

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 Borough of Luzerne, Luzerne 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 Borough of Luzerne, Luzerne 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 Borough of Luzerne, Luzerne County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Borough of Luzerne, Luzerne County's internal control.

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 Borough of Luzerne, Luzerne County's internal control.

Independent Auditor's Report (Continued)

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*:

- Documentation For Price Quotations Was Not Available For Examination.
- Nonpermissible Expenditure.

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

- Late Receipt Of Allocation.

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



EUGENE A. DEPASQUALE
Auditor General

August 29, 2012



BOROUGH OF LUZERNE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2010 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	4,760.65	-	4,760.65
Traffic control devices	2,969.07	-	2,969.07
Street lighting	11,880.00	-	11,880.00
Storm sewers and drains	626.43	-	626.43
Repairs of tools and machinery	2,917.51	-	2,917.51
Maintenance and repair of roads and bridges	15,613.44	(8,314.00)	7,299.44
Highway construction and rebuilding projects	13,181.75	8,314.00	21,495.75
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 51,948.85</u>	 <u>\$ -</u>	 <u>\$ 51,948.85</u>

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

BOROUGH OF LUZERNE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2010 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, 2010	\$ 57,455.79	\$ -	\$ 57,455.79
Receipts:			
2. State allocation	55,222.68	-	55,222.68
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	198.59	-	198.59
2c. Miscellaneous (Note 5)	992.55	-	992.55
3. Total receipts	<u>56,413.82</u>	<u>-</u>	<u>56,413.82</u>
4. Total funds available	<u>113,869.61</u>	<u>-</u>	<u>113,869.61</u>
5. Expenditures (Section 1)	<u>51,948.85</u>	<u>-</u>	<u>51,948.85</u>
6. Balance, December 31, 2010	<u>\$ 61,920.76</u>	<u>\$ -</u>	<u>\$ 61,920.76</u>

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

BOROUGH OF LUZERNE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2010 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	\$ 33,570.95	\$ -	\$ 33,570.95
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	11,044.54	-	11,044.54
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	44,615.49	-	44,615.49
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>44,615.49</u>	<u>-</u>	<u>44,615.49</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 44,615.49</u>	<u>\$ -</u>	<u>\$ 44,615.49</u>

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

BOROUGH OF LUZERNE
 LUZERNE 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	-	5,100.00	5,100.00
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	7,680.00	-	7,680.00
Winter maintenance services	7,593.49	-	7,593.49
Traffic control devices	6,266.70	-	6,266.70
Street lighting	6,222.00	-	6,222.00
Storm sewers and drains	-	-	-
Repairs of tools and machinery	13,733.20	(7,100.00)	6,633.20
Maintenance and repair of roads and bridges	13,213.30	2,000.00	15,213.30
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 54,708.69</u>	<u>\$ -</u>	<u>\$ 54,708.69</u>

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

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

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2011	\$ 61,920.76	\$ -	\$ 61,920.76
Receipts:			
2. State allocation	56,255.81	-	56,255.81
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	114.81	-	114.81
2c. Miscellaneous (Note 5)	872.00	-	872.00
3. Total receipts	<u>57,242.62</u>	<u>-</u>	<u>57,242.62</u>
4. Total funds available	<u>119,163.38</u>	<u>-</u>	<u>119,163.38</u>
5. Expenditures (Section 1)	<u>54,708.69</u>	<u>-</u>	<u>54,708.69</u>
6. Balance, December 31, 2011	<u>\$ 64,454.69</u>	<u>\$ -</u>	<u>\$ 64,454.69</u>

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

BOROUGH OF LUZERNE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 2011 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	\$ 44,615.49	\$ -	\$ 44,615.49
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	11,251.16	-	11,251.16
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	55,866.65	-	55,866.65
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>55,866.65</u>	<u>-</u>	<u>55,866.65</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 55,866.65</u>	<u>\$ -</u>	<u>\$ 55,866.65</u>

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

BOROUGH OF LUZERNE
LUZERNE 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.

BOROUGH OF LUZERNE
LUZERNE 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.

BOROUGH OF LUZERNE
LUZERNE 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 Borough Code, Title 53 P.S § 46316, authorizes the borough 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.

BOROUGH OF LUZERNE
 LUZERNE 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	\$64,454.69
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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 \$198.59 during 2010, and \$114.81 during 2011, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2010 - Section 1

Adjustments were made to “Maintenance and repair of roads and bridges” and “Highway construction and rebuilding projects” because expenditures of \$8,314.00 were misclassified.

2011 - Section 1

Adjustments were made to “Minor equipment purchases,” “Repairs of tools and machinery,” and “Maintenance and repair of roads and bridges” because expenditures of \$7,100.00 were misclassified.

5. Miscellaneous Receipts

Source	Description	2010	2011
Commonwealth of Pennsylvania	Gas tax refunds	\$657.93	\$872.00
Vendor	Refund (Note 6)	143.66	-
Vendor	Refund (Note 6)	190.96	-
	Totals	\$992.55	\$872.00

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

6. Overpayment And Duplicate Payment Of Invoices

On January 14, 2010, the municipality expended \$334.62 from the Liquid Fuels Tax Fund to pay vendor invoice No. 127987 for traffic control maintenance services. However, the amount of the invoice was only \$190.96. On February 17, 2010, the municipality deposited \$143.66 into its Liquid Fuels Tax Fund that was received from the vendor to correct the overpayment of the invoice.

On February 17, 2010, the municipality expended \$190.96 from the Liquid Fuels Tax Fund to pay the same invoice. On March 4, 2010, the municipality deposited \$190.96 into its Liquid Fuels Tax Fund that was received from the vendor to correct the duplicate payment of the invoice.



BOROUGH OF LUZERNE
 LUZERNE COUNTY
 LIQUID FUELS TAX FUND
 FINDINGS AND RECOMMENDATIONS
 FOR THE PERIOD
 JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 1 - Documentation For Price Quotations Was Not Available For Examination

Our examination disclosed that the borough expended \$6,373.47 during 2010 from the Liquid Fuels Tax Fund for multiple purchases of ice control. The borough was required to obtain three written or telephonic price quotations for these expenditures. However, documentation for price quotations was not available for examination. The purchases were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
2709105	01/11/10	2102	02/02/10	\$1,646.40
2755656	02/17/10	2112	03/11/10	1,454.75
2930004	10/27/10	2151	11/15/10	1,659.50
3004027	12/29/10	2162	01/24/11	1,612.82
Total				<u>\$6,373.47</u>

The above expenditures were not made in compliance with the contract requirements of *The Borough Code*, 53 P.S. § 46402(a.1), (also found at § 1402(a.1) of *The Borough Code* as published by the Local Government Commission), which states, in part:

Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts that exceed four thousand dollars (\$4,000.00) but are less than the amount [in excess of \$10,000.00] requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

BOROUGH OF LUZERNE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 1 - Documentation For Price Quotations Was Not Available For Examination
(Continued)

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

...For material estimates between \$4,000 and \$10,000, three telephone price quotes shall be obtained prior to the selection of a supplier. In lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations. If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000 or if the cost was between \$4,000 and \$10,000 and three price quotes were not obtained, 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 or be between \$4,000 and \$10,000 as specified above.

The failure to comply with *The Borough Code* and the Department of Transportation's *Publication 9* could result in the borough having to reimburse \$6,373.47 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the borough reimburse \$6,373.47 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the borough comply with *The Borough Code* and the Department of Transportation's *Publication 9* as noted in this finding.

BOROUGH OF LUZERNE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 1 - Documentation For Price Quotations Was Not Available For Examination
(Continued)

Management's Response

The borough officials stated:

Luzerne Borough has changed employees over the last few years. One of the most recent changes that took place was our councilman was named as street roadmaster after dismissal from the street department. As with any change in supervisors, some procedures are overlooked with the learning process. The councilman was under the assumption that the borough was receiving the best salt prices since they purchased from a vendor that participates in COSTARS.

Auditor's Conclusion

COSTARS is a program run by the Department of General Services that permits local government entities that are registered members of COSTARS to make purchases from state contracts. Although the vendor from which the borough purchased salt was a COSTARS participant, the municipality was not a member of COSTARS. Therefore, the borough was required to obtain price quotations for the ice control. During our next examination we will determine if the municipality complied with our recommendations.

BOROUGH OF LUZERNE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 2 - Nonpermissible Expenditure

Our examination disclosed that the municipality expended \$1,836.45 during 2011 from the Liquid Fuels Tax Fund for the purchase of clearlane enhanced deicer which is a nonpermissible expenditure.

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance, and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including clearlane enhanced deicer, are outside the scope of permissible expenditures.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations, as noted above, could result in the municipality having to reimburse \$1,836.45 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$1,836.45 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

Management's Response

The municipal officials stated:

The road master was not aware that clearlane enhanced deicer was not approved by PENNDOT. He stated that clearlane scatters less than regular rock salt and also has greater residual effects which allow for fewer applications. With that being said, it offered the borough reduced labor as well as fuel savings. Clearlane also stores without any signs of leaching. With your finding, Luzerne Borough will no longer purchase clearlane enhanced deicer.

BOROUGH OF LUZERNE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 2 - Nonpermissible Expenditure (Continued)

Auditor's Conclusion

The Department of Transportation has not approved clearlane enhanced deicer for use by municipalities. During our next examination we will determine if the municipality complied with our recommendations.

BOROUGH OF LUZERNE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 3 - Late Receipt Of Allocation

Our examination disclosed that the 2010 Liquid Fuels Tax Fund allocation of \$55,222.68, which should have been distributed from the Department of Transportation to the municipality during the first week of April of that year, was not received until June 8, 2011, because the municipality failed to comply with the Department of Transportation's *Publication 9*, Chapter Two, Section 2.4, which states:

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

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

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the 2010 allocation for more than two months. Furthermore, had the allocation been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.

Similar findings were also written in our 2008 and 2009 reports. However, the 2011 Liquid Fuels Tax Fund allocation was received on time.

BOROUGH OF LUZERNE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2011

Finding No. 3 - Late Receipt Of Allocation (Continued)

Recommendation

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

Management's Response

The municipal officials stated:

Once again, Luzerne Borough has gone through several secretaries over the past few years. With each secretary, there is the learning process. With the hiring of our most recent secretary, and obtaining the accounting services of a local accounting business, the borough is optimistic that we will comply with all future deadline dates for MS-965.

BOROUGH OF LUZERNE
LUZERNE COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2011

An exit conference was held August 29, 2012. Those participating were:

BOROUGH OF LUZERNE

The Honorable William J. Turcan, Councilman
Ms. Linda Booth, Acting Secretary

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Robert A. Bauder, Auditor

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

BOROUGH OF LUZERNE
LUZERNE 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

Borough of Luzerne
Luzerne County
144 Academy Street
Luzerne, PA 18709

The Honorable Michael Jancuska

President of Council

Ms. Linda Booth

Acting Secretary

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