

ATTESTATION ENGAGEMENT

Borough of Ohiopyle
Fayette County, Pennsylvania
26-411

Liquid Fuels Tax Fund
For the Period
January 1, 2020 to December 31, 2021

November 2022



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



Commonwealth of Pennsylvania
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TIMOTHY L. DEFOOR
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Yassmin Gramian, 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 Ohiopyle, Fayette County, for the period January 1, 2020 to December 31, 2021. The municipality's management is responsible for presenting the Forms MS-965 in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms MS-965 are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms MS-965. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Forms MS-965, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

As discussed in the Findings And Recommendations section of this report, our examination disclosed that the municipality did not maintain documentation to support expenditures of \$700.00 during 2020 and \$1,350.00 during 2021 for winter maintenance services

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 Borough of Ohiopyle, Fayette County, for the period January 1, 2020 to December 31, 2021, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

Independent Auditor's Report (Continued)

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms MS-965; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Forms MS-965. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A *deficiency in internal control* 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 and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Forms MS-965 will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose of expressing an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did identify a certain deficiency in internal control, described in the finding listed below, that we consider to be a material weakness in internal control:

- Documentation Supporting Expenditures Was Not Available For Examination.

As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of the Borough of Ohiopyle, Fayette County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Forms MS-965. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instance of noncompliance that is required to be reported under *Government Auditing Standards*:

- A Complete Written Record Of Borough Council Meeting Minutes Was Not Available For Audit.

Independent Auditor's Report (Continued)

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

We appreciate the courtesy extended by the Borough of Ohiopyle, Fayette County, to us during the course of our examination. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

Timothy L. DeFoor
Auditor General
November 8, 2022

CONTENTS

	<u>Page</u>
Background.....	1
Financial Section:	
2020 Form MS-965 With Adjustments	5
2021 Form MS-965 With Adjustments	8
Auditor Description Of Select Transactions.....	11
Findings And Recommendations:	
Finding No. 1 - Documentation Supporting Expenditures Was Not Available For Examination.....	12
Finding No. 2 - A Complete Written Record Of Borough Council Meeting Minutes Was Not Available For Audit.....	14
Summary Of Exit Conference.....	15
Report Distribution	16

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, see also 72 P.S. § 2615.5, et sec., provides municipalities other than counties (i.e., 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 upon: (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.

Title 75 Pa.C.S. § 9511 of the Pennsylvania Vehicle Code provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

Each municipality must deposit the allocation of Liquid Fuels Tax funds and annual maintenance payments that it receives into a special fund called either the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for road and bridge purposes. In such a case, the municipality may borrow money or transfer money from its General Fund to its Liquid Fuels Tax Fund.

The Department of Transportation has been given the regulatory authority for the administration of these funds. Department of Transportation's *Publication 9* includes the policies and procedures for the administration of Act 655, as amended, and the Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

To qualify for the annual allocation of Liquid Fuels Tax funds, *Publication 9* indicates that each municipality shall:

1. Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
2. Make deposits and payments or expenditures in compliance with Act 655 of 1956, as amended. Failure to do so may result in not receiving allocations from PennDOT until all discrepancies are resolved. *Publication 9*, Section 2.6, includes information about investing Liquid Fuels Tax monies, using loan or bond proceeds, and types of receipts into the Liquid Fuels Tax Fund.

BOROUGH OF OHIOPYLE
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 BACKGROUND
 FOR THE PERIOD
 JANUARY 1, 2020 TO DECEMBER 31, 2021

Background (Continued)

3. Submit the Pennsylvania Department of Community and Economic Development’s (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition By March 15th.
4. Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
5. Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation’s Financial Consultants.

Criteria

The criteria for the Form MS-965 With Adjustment are described below.

Section 1 of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

- Major equipment purchases are purchases of road machinery and road equipment with varying yearly costs in excess of the amounts indicated below:

2018	2019	2020	2021
\$10,900.00	\$11,100.00	\$11,300.00	\$11,500.00

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

2018	2019	2020	2021
\$10,900.00	\$11,100.00	\$11,300.00	\$11,500.00

- Agility projects are exchanges of services with the Department of Transportation.

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

Background (Continued)

Section 2 of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is available from the Department of Transportation in March of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- Municipalities that transferred roads from the Commonwealth of Pennsylvania to the municipality through the Highway Transfer Program receive annual turnback allocations in March of each year from the Department of Transportation. Turnback allocations are based on the mileage of the roads transferred.
- Expenditures include the total transferred from Section 1.

Section 3 of Form MS-965 With Adjustments determines if the municipality expended Liquid Fuels Tax Fund money in excess of the permissible amount for equipment and the balance that the municipality may carry forward for the purchase of equipment to the subsequent year.

Department of Transportation *Publication 9* requires that the amount expended for equipment purchases in a given year not exceed the sum of the equipment balance carried forward from the previous year and 20 percent of the current year's Liquid Fuels Tax Fund allocation and, if applicable, 20 percent of the turnback allocation plus other Department of Transportation approved adjustments.

If the municipality spent in excess of the amount listed on Line 4, the excess must be reimbursed to the Liquid Fuels Tax Fund.

The equipment balance to be carried forward for the subsequent year is the lesser of the amount on Line 6 or the ending fund balance on Line 6 of Section 2, but not less than zero.

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

Background (Continued)

Basis of Presentation

The financial activities of the municipality are accounted for in separate funds. The Liquid Fuels Tax Fund is used to account for state aid revenues from the Pennsylvania Department of Transportation used primarily for building and improving local roads and bridges. The Form MS-965 has been prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation as a result of the Fuels Tax Act 655, dated 1956 and as amended, which does not constitute a complete presentation of the entity's assets, liabilities, expenses, and fund balance. Accordingly, the presentation of Form MS-965 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity.

Basis Of Accounting

The accompanying Form MS-965 With Adjustments is prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation. Under this method, revenues are recognized when received and expenditures are recorded when paid.

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.

BOROUGH OF OHIOPYLE
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2020 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ -	\$ -	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	1,241.08	-	1,241.08
Traffic control devices	-	-	-
Street lighting	1,585.49	-	1,585.49
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>\$ 2,826.57</u>	<u>\$ -</u>	<u>\$ 2,826.57</u>

BOROUGH OF OHIOPYLE
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2020 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, 2020	\$ 14,476.01	\$ -	\$ 14,476.01
Receipts:			
2. State allocation	5,637.19	-	5,637.19
2a. Turnback allocation	-	-	-
2b. Interest on investments	34.04	-	34.04
2c. Miscellaneous	-	-	-
3. Total receipts	<u>5,671.23</u>	<u>-</u>	<u>5,671.23</u>
4. Total funds available	<u>20,147.24</u>	<u>-</u>	<u>20,147.24</u>
5. Expenditures (Section 1)	<u>2,826.57</u>	<u>-</u>	<u>2,826.57</u>
6. Balance, December 31, 2020	<u><u>\$ 17,320.67</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 17,320.67</u></u>

BOROUGH OF OHIOPYLE
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2020 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	\$ 7,744.79	\$ -	\$ 7,744.79
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1,127.44	-	1,127.44
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	8,872.23	-	8,872.23
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>8,872.23</u>	<u>-</u>	<u>8,872.23</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 8,872.23</u>	<u>\$ -</u>	<u>\$ 8,872.23</u>

BOROUGH OF OHIOPYLE
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2021 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ -	\$ -	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	1,350.00	-	1,350.00
Traffic control devices	-	-	-
Street lighting	1,449.18	-	1,449.18
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	-	-
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 2,799.18</u>	 <u>\$ -</u>	 <u>\$ 2,799.18</u>

BOROUGH OF OHIOPYLE
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2021 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, 2021	\$ 17,320.67	\$ -	\$ 17,320.67
Receipts:			
2. State allocation	5,231.99	-	5,231.99
2a. Turnback allocation	-	-	-
2b. Interest on investments	22.04	-	22.04
2c. Miscellaneous	357.14	-	357.14
3. Total receipts	<u>5,611.17</u>	<u>-</u>	<u>5,611.17</u>
4. Total funds available	<u>22,931.84</u>	<u>-</u>	<u>22,931.84</u>
5. Expenditures (Section 1)	<u>2,799.18</u>	<u>-</u>	<u>2,799.18</u>
6. Balance, December 31, 2021	<u><u>\$ 20,132.66</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 20,132.66</u></u>

BOROUGH OF OHIOPYLE
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 2021 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	\$ 8,872.23	\$ -	\$ 8,872.23
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1,046.40	-	1,046.40
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	9,918.63	-	9,918.63
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>9,918.63</u>	<u>-</u>	<u>9,918.63</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 9,918.63</u>	<u>\$ -</u>	<u>\$ 9,918.63</u>

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

The following information relates to certain types of transactions for which the Pennsylvania Department of Transportation requested that we provide additional detail:

Miscellaneous Receipts

On July 14, 2021, the municipality deposited \$357.14 into its Liquid Fuels Tax Fund that was received from the Commonwealth of Pennsylvania for the Marcellus Shale Impact Fee.

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

Finding No. 1 - Documentation Supporting Expenditures Was Not Available For Examination

Our examination disclosed that the municipality did not maintain documentation to support expenditures of \$700.00 during 2020 and \$1,350.00 during 2021 for winter maintenance services. Invoices were not available for review for approval and math accuracy.

Good internal control procedures ensure that there is documentation to support all expenditures.

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 expenditures made without supporting documentation, are outside the scope of permissible expenditures.

Without adequate documentation, we could not determine if the expenditures were permissible according to the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations.

The condition occurred because the municipal officials were unaware invoices were required since council verbally approved the expenditures.

The failure to maintain documentation to support expenditures could result in the municipality having to reimburse \$2,050.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$2,050.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality ensure good internal control over expenditures by maintaining adequate documentation to support all expenditures.

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

Finding No. 1 - Documentation Supporting Expenditures Was Not Available For Examination (Continued)

Management's Response

The secretary/treasurer stated:

Invoices will be presented for payment.

Auditor's Conclusion

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

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

Finding No. 2 - A Complete Written Record Of Borough Council Meeting Minutes Was Not Available For Audit

Our examination disclosed that a complete written record of minutes reflecting advertised meetings of council were not available for examination for the period January 1, 2020 to December 31, 2021, with the exception of two sessions in 2020. The meetings were done by video chat and have not yet been transcribed to paper.

Section 1111 of *The Borough Code* states, in part, that “the secretary shall certify copies of any book, paper, by law, rule, regulation, resolution, ordinance or proceeding of the borough under the seal, when so certified, shall be admissible in Commonwealth Court.” Furthermore, Section 1113 states, in part, that “the minute book shall be open to inspection of any taxpayer.”

The primary purpose of the minutes is to provide an official record of the council meetings. Without a complete record of readable minutes, we were unable to determine if there were any references to road projects, or if any additional information would have had an impact on the propriety of liquid fuels expenditures. Additionally, we were unable to determine if litigation or related party transactions were noted.

The condition occurred because council meetings were done by video chat and not transcribed.

Recommendation

We recommend that, in the future, transcribed minutes for council meetings be available for public review within a reasonable period of time after each meeting.

Management’s Response

The secretary/treasurer stated:

Meeting minutes will be presented and kept in files.

Auditor’s Conclusion

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

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

An exit conference was held July 13, 2022. Those participating were:

BOROUGH OF OHIOPYLE

Mrs. Patricia Hoehn, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Michele Simpson, Auditor

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

BOROUGH OF OHIOPYLE
FAYETTE COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2021

This report was initially distributed to:

The Honorable Yassmin Gramian, P.E.
Secretary
Department of Transportation

Borough of Ohiopyle
Fayette County
17 Sherman Street
P.O. Box 83
Ohiopyle, PA 15470

The Honorable Sam Dean
Mayor

The Honorable Conrad Hamather
President of Council

Mrs. Patricia Hoehn
Secretary/Treasurer

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.