ATTESTATION ENGAGEMENT

Township of Sewickley Westmoreland County, Pennsylvania 64-215 Liquid Fuels Tax Fund For the Period January 1, 2019 to December 31, 2019

August 2021



Timothy L. DeFoor • Auditor General



Commonwealth of Pennsylvania Department of the Auditor General Harrisburg, PA 17120-0018 Facebook: Pennsylvania Auditor General Twitter: @PAAuditorGen www.PaAuditor.gov

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 Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Sewickley, Westmoreland County, for the period January 1, 2019 to December 31, 2019. The municipality's management is responsible for presenting the Form 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 Form 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 Form MS-965 is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Form 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 Form MS-965, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each municipality's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

### Independent Auditor's Report (Continued)

As described in the Auditor Description Of Select Transactions section of this report, the adjustments included on the Form MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in the Finding And Recommendations section of this report, the township expended \$50,574.42 during 2019 from the Liquid Fuels Tax Fund for a lease-purchase payment on a 2016 Gradell XL excavator without advertising for bids.

In our opinion, except for the matter discussed in the preceding paragraph, the Form MS-965 With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Township of Sewickley, Westmoreland County, for the period January 1, 2019 to December 31, 2019, in accordance with the criteria described in the Background section of this report and the Department of Transportation 9.

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 Form 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 Form 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 Form MS-965 is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Form 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 Form 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.

### Independent Auditor's Report (Continued)

Our consideration of internal control over reporting on the Form MS-965 was for the limited purpose of expressing an opinion on whether the Form MS-965 is presented in accordance with the criteria described above and would not necessarily identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Form MS-965 is free from material misstatement, we performed tests of the Township of Sewickley, Westmoreland 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 Form 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*:

• Noncompliance With Advertising And Bidding Requirements.

The examination finding contained in this report cites a condition that existed in the operation of the municipality during the previous engagement period and was not corrected during the current examination period. The municipality should strive to comply with the recommendations in this report.

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

We appreciate the courtesy extended by the Township of Sewickley, Westmoreland 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.

Timothy L. Detaor

Timothy L. DeFoor Auditor General

July 20, 2021

# CONTENTS

# <u>Page</u>

Background	1
Financial Section:	
2019 Form MS-965 With Adjustments	5
Auditor Description Of Select Transactions	8
Finding And Recommendations:	11
Finding –Noncompliance With Advertising And Bidding Requirements - Recurring	11
Summary Of Prior Examination Recommendations	13
Summary Of Exit Conference	14
Report Distribution	15

### Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, (72 P.S. § 2615.5 et sec.), provides municipalities other than counties (townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage in the state, and (2) 50 percent on the proportion of a municipality's population to the total population in the state.

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

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

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

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

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

# Background (Continued)

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

2017	2018	2019	2020
\$10,700.00	\$10,900.00	\$11,100.00	\$11,300.00

• 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:

2017	2018	2019	2020
\$10,700.00	\$10,900.00	\$11,100.00	\$11,300.00

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

# 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.

### 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.

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	 Reported	Adjı	istments	 Adjusted Amount
Minor equipment purchases	\$ -	\$	-	\$ -
Computer/Computer related training	-		-	-
Major equipment purchases	59,055.56		-	59,055.56
Agility projects	-		-	-
Cleaning streets and gutters	-		-	-
Winter maintenance services	-		-	-
Traffic control devices	-		-	-
Street lighting	-		-	-
Storm sewers and drains	23,515.00		-	23,515.00
Repairs of tools and machinery	-		-	-
Maintenance and repair of				
roads and bridges	173,515.28		-	173,515.28
Highway construction and				
rebuilding projects	227,510.62		-	227,510.62
Miscellaneous	 -			 
Total (To Section 2, Line 5)	\$ 483,596.46	\$	_	\$ 483,596.46

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	Adjustments	Adjusted Amount
1. Balance, January 1, 2019	\$ 154,376.73	\$-	\$ 154,376.73
Receipts:			
2. State allocation	330,063.71	-	330,063.71
2a. Turnback allocation	29,000.00	-	29,000.00
2b. Interest on investments	5,787.91	-	5,787.91
2c. Miscellaneous	50,736.49		50,736.49
3. Total receipts	415,588.11		415,588.11
4. Total funds available	569,964.84		569,964.84
5. Expenditures (Section 1)	483,596.46		483,596.46
6. Balance, December 31, 2019	\$ 86,368.38	\$	\$ 86,368.38

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported		Adjustments		Adjusted Amount	
1. Prior year equipment balance	\$	81,231.49	\$	-	\$	81,231.49
<ol> <li>Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)</li> </ol>		71,812.74		-		71,812.74
3. PENNDOT approved adjustments				50,736.49		50,736.49
4. Total funds available for equipment acquisition		153,044.23		50,736.49		203,780.72
5. Less: Major equipment expenditures		59,055.56				59,055.56
6. Remainder		93,988.67		50,736.49		144,725.16
<ol> <li>Function For the second state of the subsequent second state of the secon</li></ol>	\$	86,368.38	\$	_	\$	86,368.38

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND AUDITORS DESCRIPTION OF SELECT TRANSACTIONS FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

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

### Adjustments **Adjustments**

### Section 3

An adjustment of \$50,736.49 was made to "PENNDOT approved adjustments" because the refund of a truck loan overpayment of \$162.07 and the reimbursement of an excavator lease payment of \$50,574.42 were not reported as approved adjustments.

### Miscellaneous Receipts

The following miscellaneous receipts were deposited into the Liquid Fuels Tax Fund during the examination period:

Source	Description	Amount
General Fund General Fund	Refund of loan overpayment Reimbursement (Summary Of Prior	\$ 162.07
	Examination Recommendations)	50,574.42
Total		\$50,736.49

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND AUDITORS DESCRIPTION OF SELECT TRANSACTIONS FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

#### Lease-Purchase Agreement

On February 27, 2014, the municipality purchased a 2014 John Deere loader for \$142,738.00, less a trade-in value of \$24,000.00. The municipality entered into a lease-purchase agreement with John Deere Financial for the remaining \$118,738.00. The term of the loan was for seven years at an interest rate of 3.00 percent. Principal and interest payments of \$16,086.74 are due annually. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$13,848.40 and \$2,238.34, respectively. Additionally, the municipality paid principal of \$59,422.12 and interest of \$7,508.10 from the General Fund.

During the current examination period, the municipality paid principal of \$14,703.71 and interest of \$1,383.03 from the General Fund. These amounts are reflected in major equipment purchases on the 2019 Form MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2019, was \$30,763.77, plus interest.

### Bank Loan

On April 6, 2015, the municipality borrowed \$31,381.00 from First National Bank of Pennsylvania to purchase a 2015 Ford F250 truck. The term of the loan was for four years at an interest rate of 2.55 percent. Principal and interest payments of \$8,356.49 are due annually. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$7,940.59 and \$415.90, respectively. Additionally, the municipality paid principal of \$15,337.03 and interest of \$1,375.95 from the General Fund.

During the current examination period, the municipality paid principal of \$8,103.38 and interest of \$215.69 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2019 Form MS-965 - Section 1. On March 29, 2019 the loan was paid-in-full.

### TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND AUDITORS DESCRIPTION OF SELECT TRANSACTIONS FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

#### Lease-Purchase Agreement

On July 19, 2017, the municipality entered into a lease-purchase agreement with F.N.B Commercial Leasing to purchase a 2016 Gradall XL excavator for \$237,000.00. The agreement was for a term of five years at an interest rate of 3.16 percent. Principal and interest payments of \$50,574.42 are due annually. Prior years' principal and interest payments from the General Fund were \$47,969.12 and \$2,605.30, respectively. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$45,041.87 and \$5,532.55, respectively. However, because this purchase was not properly advertised and bid in the prior examination, the Department of Transportation directed the municipality to reimburse the principal and interest totaling \$50,574.42 to its Liquid Fuels Tax Fund (see Summary Of Prior Examination Recommendations).

During the current examination period, the municipality paid principal of \$46,487.73 and interest of \$4,086.69 from the Liquid Fuels Tax Fund (see Finding). These amounts are reflected in major equipment purchases on the 2019 Form MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2019, was \$97,501.28, plus interest. No further payments should be made on this loan from the Liquid Fuels Tax Fund.

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND FINDING AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

### Finding - Noncompliance With Advertising And Bidding Requirements - Recurring

We cited the township for failing to advertise for bids for the purchase of a 2016 Gradall XL excavator in our prior report for the period January 1, 2017 to December 31, 2018. The township officials were informed at the exit conference for that examination on June 11, 2019 that the excavator was not properly bid and that payments should not be made from the Liquid Fuels Tax Fund. However, our current examination disclosed that the township expended \$50,574.42 on August 8, 2019 from the Liquid Fuels Tax Fund for another lease-purchase payment on the excavator.

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 \$18,500.00 during 2012 must be advertised, bid, and awarded by contract. The bidding threshold increased to purchases over \$20,600.00 for 2019, \$21,000.00 for 2020, and \$21,300.00 for 2021. *The Second Class Township Code* as published by the Local Government Commission) for at § 3104(a) of *The Second Class Township Code* as published by the Local Government Commission) further states that advertising, bidding and contract requirements should not be evaded through piecemeal purchases.

The failure to comply with *The Second Class Township Code* could result in the township having to reimburse \$50,574.42 to its Liquid Fuels Tax Fund.

### Recommendations

We recommend that the township reimburse \$50,574.42 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We recommend that the township discontinues making payments from its Liquid Fuels Tax Fund for the purchase of the excavator.

#### Management's Response

The secretary stated:

Advertising and bidding documents were unable to be located by current office staff.

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND FINDING AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

# <u>Finding – Noncompliance With Advertising And Bidding Requirements – Recurring</u> (Continued)

# Auditor's Conclusion

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

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

#### Summary Of Prior Examination Recommendations

In our prior report, we recommended that the Department of Transportation review our examination finding to determine if the township should reimburse \$50,574.42 to its Liquid Fuels Tax Fund for failing to advertise for bids for the purchase of an excavator.

During our current examination, we reviewed a letter dated October 24, 2019, from the Department of Transportation directing the township to reimburse \$50,574.42 to its Liquid Fuels Tax Fund. We noted that the township had already reimbursed this amount to its Liquid Fuels Tax Fund on August 28, 2019.

In our prior report, we also recommended that the township complies with *The Second Class Township Code* by advertising for bids for all purchases over \$20,100.00. The threshold for advertising for bids increased to purchases over \$20,600.00 for 2019, \$21,000.00 for 2020, and \$21,300.00 for 2021.

During our current examination, we noted that the township complied with our recommendation. However, the township made another payment toward the purchase of the excavator (see Finding).

# TOWNSHIP OF SEWICKLEY WESTMORELAND COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

An exit conference was heldJuly 20, 2021. Those participating were:

# TOWNSHIP OF SEWICKLEY

Ms. Susan Leukhardt, Secretary

# DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Debra L. Alsippi, Audit Supervisor

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

This report was initially distributed to:

# The Honorable Yassmin Gramian, P.E.

Secretary Department of Transportation

### **Township of Sewickley**

Westmoreland County 2288 Mars Hill Road Irwin, PA 15642

#### **The Honorable Mark Petros**

Chairman of the Board of Supervisors

#### Mr. Donn Henderson

Township Manager/Treasurer

### Ms. Susan Leukhardt Secretary

This report is a matter of public record and is available online at <u>www.PaAuditor.gov</u>. 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: <u>news@PaAuditor.gov</u>.