

# ATTESTATION ENGAGEMENT

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**Township of Todd**  
Huntingdon County, Pennsylvania  
31-225  
Liquid Fuels Tax Fund  
For the Period  
January 1, 2018 to December 31, 2020

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**October 2021**



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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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 Township of Todd, Huntingdon County, for the period January 1, 2018 to December 31, 2020. 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.

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 Forms MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in the Findings And Recommendations section of this report:

- The municipality expended \$119,449.20 during 2019 from its Liquid Fuels Tax Fund for tar and chip in noncompliance with advertising and bidding requirements (see Finding No. 1).
- The municipality expended \$37,270.50 during 2018 and \$8,175.00 during 2020 for related party transactions (see Finding No. 2).
- The municipality expended \$13,823.29 during 2020 for stone. However, documentation for price quotations was not available for examination (see Finding No. 3).
- The municipality expended \$1,875.00 during 2018 and \$8,175.00 during 2020 from the Liquid Fuels Tax Fund for shale, which is a nonpermissible expenditure (see Finding No. 4).

In our opinion, except for the bulleted matters discussed above, 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 Todd, Huntingdon County, for the period January 1, 2018 to December 31, 2020, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 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 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 internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

## Independent Auditor's Report (Continued)

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 over reporting on the Forms MS-965 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 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.

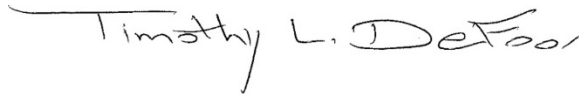
As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of the Township of Todd, Huntingdon County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a 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 instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Noncompliance With Advertising Requirements.
- Related Party Transactions.
- Documentation For Price Quotations Was Not Available For Examination.
- Nonpermissible Expenditures.

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.

Independent Auditor's Report (Continued)

We appreciate the courtesy extended by the Township of Todd, Huntingdon 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 stroke at the beginning.

September 13, 2021

Timothy L. DeFoor  
Auditor General

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TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, (72 P.S. § 2615.5 et seq.), 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.

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

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.



TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

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.

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

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 TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
2018 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	14,729.67	-	14,729.67
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	790.05	-	790.05
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	4,243.63	-	4,243.63
Maintenance and repair of roads and bridges	60,838.41	-	60,838.41
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 80,601.76</u>	 <u>\$ -</u>	 <u>\$ 80,601.76</u>

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
2018 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, 2018	\$ 16,859.27	\$ -	\$ 16,859.27
Receipts:			
2. State allocation	103,846.47	-	103,846.47
2a. Turnback allocation	-	-	-
2b. Interest on investments	135.07	-	135.07
2c. Miscellaneous	31,980.00	-	31,980.00
3. Total receipts	<u>135,961.54</u>	<u>-</u>	<u>135,961.54</u>
4. Total funds available	<u>152,820.81</u>	<u>-</u>	<u>152,820.81</u>
5. Expenditures (Section 1)	<u>80,601.76</u>	<u>-</u>	<u>80,601.76</u>
6. Balance, December 31, 2018	<u><u>\$ 72,219.05</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 72,219.05</u></u>

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
2018 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	\$ 16,859.27	\$ -	\$ 16,859.27
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	20,769.29	-	20,769.29
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	37,628.56	-	37,628.56
5. Less: Major equipment expenditures	14,729.67	-	14,729.67
6. Remainder	<u>22,898.89</u>	<u>-</u>	<u>22,898.89</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 22,898.89</u>	<u>\$ -</u>	<u>\$ 22,898.89</u>

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
2019 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	14,729.67	-	14,729.67
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	-	119,449.20	119,449.20
Highway construction and rebuilding projects	119,449.20	(119,449.20)	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 134,178.87</u>	 <u>\$ -</u>	 <u>\$ 134,178.87</u>

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
2019 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, 2019	\$ 72,219.05	\$ -	\$ 72,219.05
Receipts:			
2. State allocation	105,734.47	-	105,734.47
2a. Turnback allocation	-	-	-
2b. Interest on investments	217.87	-	217.87
2c. Miscellaneous	-	-	-
3. Total receipts	<u>105,952.34</u>	<u>-</u>	<u>105,952.34</u>
4. Total funds available	<u>178,171.39</u>	<u>-</u>	<u>178,171.39</u>
5. Expenditures (Section 1)	<u>134,178.87</u>	<u>-</u>	<u>134,178.87</u>
6. Balance, December 31, 2019	<u><u>\$ 43,992.52</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 43,992.52</u></u>

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
2019 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	\$ 22,898.89	\$ -	\$ 22,898.89
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	21,146.89	-	21,146.89
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	44,045.78	-	44,045.78
5. Less: Major equipment expenditures	14,729.67	-	14,729.67
6. Remainder	<u>29,316.11</u>	<u>-</u>	<u>29,316.11</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 29,316.11</u>	<u>\$ -</u>	<u>\$ 29,316.11</u>



TOWNSHIP OF TODD  
HUNTINGDON 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	14,729.67	-	14,729.67
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	-	-	-
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	40,082.46	-	40,082.46
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 54,812.13</u>	 <u>\$ -</u>	 <u>\$ 54,812.13</u>

TOWNSHIP OF TODD  
HUNTINGDON 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	\$ 43,992.52	\$ -	\$ 43,992.52
Receipts:			
2. State allocation	103,397.07	-	103,397.07
2a. Turnback allocation	-	-	-
2b. Interest on investments	154.17	-	154.17
2c. Miscellaneous	-	-	-
3. Total receipts	<u>103,551.24</u>	<u>-</u>	<u>103,551.24</u>
4. Total funds available	<u>147,543.76</u>	<u>-</u>	<u>147,543.76</u>
5. Expenditures (Section 1)	<u>54,812.13</u>	<u>-</u>	<u>54,812.13</u>
6. Balance, December 31, 2020	<u><u>\$ 92,731.63</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 92,731.63</u></u>

TOWNSHIP OF TODD  
HUNTINGDON 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	\$ 29,316.11	\$ -	\$ 29,316.11
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	20,679.41	-	20,679.41
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	49,995.52	-	49,995.52
5. Less: Major equipment expenditures	14,729.67	-	14,729.67
6. Remainder	<u>35,265.85</u>	<u>-</u>	<u>35,265.85</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 35,265.85</u>	<u>\$ -</u>	<u>\$ 35,265.85</u>

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

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

Adjustments

2019 - Section 1

Adjustments were made to “Maintenance and repair of roads and bridges” and “Highway construction and rebuilding projects” because expenditures of \$119,449.20 were misclassified.

Miscellaneous Receipts

On December 27, 2018, the municipality deposited Dirt and Gravel Road Grants of \$31,980.00 into its Liquid Fuels Tax Fund that were received from Huntingdon County.

Lease-Purchase Agreement

On August 15, 2017, the municipality entered into a lease-purchase agreement with Leasing 2, Inc. to purchase a 2016 Ford dump truck for \$76,170.00. The agreement was for a term of six years at an interest rate of 5.179 percent. Principal and interest payments of \$14,729.67 are due annually.

During the current examination period, the municipality paid principal of \$36,191.92 and interest of \$7,997.09 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2018, 2019, and 2020 Forms MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2020, was \$39,978.08, plus interest.

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 1 - Noncompliance With Advertising Requirements**

Our examination disclosed that on April 19, 2019, the township advertised for tar and chipping. The township did not receive any bids. During the township supervisors' meeting May 20, 2019, the township supervisors made a motion to rebid for the tar and chipping. The township did not re-advertise for bids and awarded a bid for tar and chipping at the township supervisors' meeting on June 10, 2019. On September 5, 2019, the municipality expended \$119,449.20 from its Liquid Fuels Tax Fund for the tar and chipping. Because the township only advertised once for bids and failed to re-advertise for bids when no bids were received, this expenditure was made in noncompliance with advertising and bidding requirements.

The above expenditure 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 \$18,500.00 during 2012 shall not be made except with and from the lowest responsible bidder after due notice in one newspaper of general circulation in the township. The notice of bids shall be published at least two times at intervals of not less than three days in a daily newspaper or once a week for two successive weeks in weekly newspapers. The bidding threshold increased to purchases over \$20,100.00 for 2018, \$20,600.00 for 2019, \$21,000.00 for 2020, and \$21,300.00 for 2021. *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.

The Department of Transportation's *Publication 9*, Appendix D, § 449.5 Failure to receive bids, states:

If a purchase or contract over [\$20,600 for 2019] is advertised and no bids are received, the municipality may not proceed with the purchase or contract unless it is again advertised for bids. If again no bids are received, the municipality may negotiate the purchase or contract on the best terms available within 45 days of the second advertisement if no substantial changes are made in the terms, conditions and specifications contained in the bid proposal. If substantial changes must be made to procure the purchase or contract, the purchase or contract shall be re-advertised and bid on the basis of the changes.

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 \$119,449.20 to its Liquid Fuels Tax Fund.

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 1 - Noncompliance With Advertising Requirements (Continued)**

This condition occurred because the municipality was unaware that it needed to re-advertise after receiving no bids.

Recommendations

We recommend that the township reimburse \$119,449.20 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township complies with *The Second Class Township Code* and the Department of Transportation's *Publication 9* as noted in this finding.

Management's Response

The secretary/treasurer stated:

We had no bids for the original adverting and were not aware that we needed to re-advertise since it was a month later.

Auditor's Conclusion

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

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

**Finding No. 2 - Related Party Transactions**

Our examination disclosed that the township expended \$37,270.50 during 2018 and \$8,175.00 during 2020 from the Liquid Fuels Tax Fund for various road work. The business was co-owned by a township supervisor, his brother, and nephew. 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 employee 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 employee 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 \$500.00 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at \$500.00 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 supervisory or overall responsibility for the implementation or administration of the contract.

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**Finding No. 2 - Related Party Transactions (Continued)**

Because these contracts violate *The Second Class Township Code* and the Ethics Act, the township could be required by the Pennsylvania Department of Transportation to reimburse \$45,445.50 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.

The township secretary/treasurer stated the municipality properly awarded a contract to the supervisor's business in 2017, then continued the relationship without bidding in subsequent years.

Recommendations

We recommend that the township reimburse \$45,445.50 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township complies with *The Second Class Township Code* and the Ethics Act.

Management's Response

The secretary/treasurer stated that:

In 2017, they advertised for contractor hourly rates for labor and machines, the supervisor's business was the lowest and that they have been using the supervisor's business every year since.

Auditor's Conclusion

The Ethics Act requires the township to re-bid the contract annually if it is for \$500 or more before awarding a contract to a related party. During our next examination, we will determine whether the municipality complied with our recommendations.



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**Finding No. 3 - Documentation For Price Quotations Was Not Available For Examination**

Our examination disclosed that the township expended a total of \$15,840.25 during 2020 from the Liquid Fuels Tax Fund for the purchase of stone. The township was required to obtain three written or telephonic price quotations for these expenditures. However, documentation for price quotations was not available for examination for \$13,823.29 of stone. The stone purchases were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
275678	08/28/20	1072	09/12/20	\$12,768.52
375815	10/03/20	1076	10/10/20	<u>1,054.77</u>
2020 Total				<u><u>\$13,823.29</u></u>

The above expenditures were not made in compliance with the contract requirements of *The Second Class Township Code*, 53 P.S. § 68102(b), (also found at § 3102(b) of *The Second Class Township 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 [during 2012] that exceed ten thousand dollars (\$10,000.00) but are less than the amount [in excess of \$18,500.00] 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.

The thresholds for obtaining price quotations increased to purchases between \$10,900.00 and \$20,100.00 for 2018, \$11,100.00 and \$20,600.00 for 2019, \$11,300.00 and \$21,000.00 for 2020, and \$11,500.00 and \$21,300.00 for 2021.

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**Finding No. 3 - Documentation For Price Quotations Was Not Available For Examination  
(Continued)**

The failure to comply with *The Second Class Township Code* could result in the township having to reimburse \$13,823.29 to its Liquid Fuels Tax Fund.

The township secretary/treasurer stated that a vendor that was properly contracted could not provide stone the township needed, so the municipality purchased it from another vendor without obtaining the required price quotations.

Recommendations

We recommend that the township reimburse \$13,823.29 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the township complies with *The Second Class Township Code* as noted in this finding.

Management's Response

The secretary/treasurer stated:

We used another vendor that wasn't contracted for stone the contracted bidder did not provide.

Auditor's Conclusion

The township should have obtained three written or telephonic price quotations from other vendors before purchasing the stone from an unauthorized vendor. During our next examination, we will determine whether the municipality complied with our recommendations.

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**Finding No. 4 - Nonpermissible Expenditures**

Our examination disclosed that the municipality expended \$1,875.00 during 2018 and \$8,175.00 during 2020 from the Liquid Fuels Tax Fund for the purchase and placement of shale, which is a nonpermissible expenditure.

Types of stone approved by the Department of Transportation are listed in the Department of Transportation Specifications *Publication 408*, Section 703.2. Shale does not appear in *Publication 408*.

The failure to purchase stone that is approved by the Department of Transportation could result in the municipality having to reimburse \$10,050.00 to its Liquid Fuels Tax Fund. This amount is also included in Finding No. 2.

The municipality was not aware that shale was not a permissible expenditure from the Liquid Fuels Tax Fund.

**Recommendations**

If the Department of Transportation does not require reimbursement for Finding No. 2, we recommend that the municipality reimburse \$10,050.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality purchase stone that is approved by the Department of Transportation.

**Management's Response**

The secretary/treasurer stated:

We were not aware that we could not use shale for Liquid Fuels projects.

**Auditor's Conclusion**

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

TOWNSHIP OF TODD  
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SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
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An exit conference was held July 13, 2021. Those participating were:

TOWNSHIP OF TODD

Ms. Catherine Harshbarger, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. David R. Brown, Audit Supervisor

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

TOWNSHIP OF TODD  
HUNTINGDON COUNTY  
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REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2020

This report was initially distributed to:

**The Honorable Yassmin Gramian, P.E.**

Secretary  
Department of Transportation

**Township of Todd**  
Huntingdon County  
6688 Old Plank Road  
Broad Top, PA 16657

**The Honorable Dennis Runk**  
Chairman of the Board of Supervisors

**Ms. Catherine Harshbarger**  
Secretary/Treasurer

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