ATTESTATION ENGAGEMENT

City of Uniontown Fayette County, Pennsylvania 26-302 Liquid Fuels Tax Fund For the Period January 1, 2020 to December 31, 2021

March 2023



Commonwealth of Pennsylvania Department of the Auditor General

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

Michael Carroll Acting Secretary Department of Transportation Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the City of Uniontown, 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.

We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

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.

Independent Auditor's Report (Continued)

As discussed in the Findings No. 1, the city expended \$26,075.44 during 2021 from the Liquid Fuels Tax Fund for the purchase of road salt without advertising for bids. Additionally, as discussed in Finding No. 2, the municipality expended \$7,958.64 from the Liquid Fuels Tax Fund for a retroactive 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 City of Uniontown, 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*.

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.

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.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of City of Uniontown, 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*:

- Noncompliance With Advertising and Bidding Requirements.
- Retroactive Expenditure.

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 City of Uniontown, 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.

Timothy L. Detoor

Timothy L. DeFoor Auditor General March 3, 2023

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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 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.

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.

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.

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

Expenditure Summary	Reported		Adjustments		Adjusted Amount	
Minor equipment purchases	\$	-	\$	7,220.00	\$	7,220.00
Computer/Computer related training		-		-		-
Major equipment purchases		73,521.92		-		73,521.92
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		30,087.83		-		30,087.83
Traffic control devices		147,936.92		-		147,936.92
Street lighting		-		-		-
Storm sewers and drains		-		-		-
Repairs of tools and machinery		20,142.40		(7,220.00)		12,922.40
Maintenance and repair of						
roads and bridges		4,389.70		-		4,389.70
Highway construction and						
rebuilding projects		7,958.64		-		7,958.64
Miscellaneous		-		-		-
Total (To Section 2, Line 5)	\$ 2	284,037.41	\$		\$	284,037.41

CITY OF UNIONTOWN FAYETTE COUNTY LIQUID FUELS TAX FUND 2020 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	Adjustments	Adjusted Amount
1. Balance, January 1, 2020	\$ 495,345.74	4 \$ -	\$ 495,345.74
Receipts:			
2. State allocation	319,987.31	l -	319,987.31
2a. Turnback allocation	4,880.00) -	4,880.00
2b. Interest on investments	5,420.67	7 -	5,420.67
2c. Miscellaneous			
3. Total receipts	330,287.98	3	330,287.98
4. Total funds available	825,633.72	2	825,633.72
5. Expenditures (Section 1)	284,037.41	<u> </u>	284,037.41
6. Balance, December 31, 2020	\$ 541,596.3	<u> </u>	\$ 541,596.31

CITY OF UNIONTOWN FAYETTE COUNTY LIQUID FUELS TAX FUND 2020 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported	Adjustments	Adjusted Amount
1. Prior year equipment balance	\$ 279,390.44	\$-	\$ 279,390.44
 Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2) 	64,973.46	-	64,973.46
3. PENNDOT approved adjustments			
4. Total funds available for equipment acquisition	344,363.90	-	344,363.90
5. Less: Major equipment expenditures	73,521.92		73,521.92
6. Remainder	270,841.98		270,841.98
 Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) 	\$ 270,841.98	<u>\$ </u>	\$ 270,841.98

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

Expenditure Summary	Reported	Adjustments	Adjusted Amount	
Minor equipment purchases	\$ -	\$ -	\$ -	
Computer/Computer related training	-	-	-	
Major equipment purchases	-	19,079.20	19,079.20	
Agility projects	-	-	-	
Cleaning streets and gutters	-	-	-	
Winter maintenance services	26,075.44	-	26,075.44	
Traffic control devices	-	-	-	
Street lighting	139,169.54	-	139,169.54	
Storm sewers and drains	-	-	-	
Repairs of tools and machinery	29,759.78	(19,079.20)	10,680.58	
Maintenance and repair of				
roads and bridges	9,349.51	-	9,349.51	
Highway construction and				
rebuilding projects	186,686.72	-	186,686.72	
Miscellaneous	276.98		276.98	
Total (To Section 2, Line 5)	\$ 391,317.97	<u>\$ </u>	\$ 391,317.97	

CITY OF UNIONTOWN FAYETTE COUNTY LIQUID FUELS TAX FUND 2021 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	Adjustments	Adjusted Amount
1. Balance, January 1, 2021	\$ 541,596.31	\$ -	\$ 541,596.31
Receipts:			
2. State allocation	293,994.82	-	293,994.82
2a. Turnback allocation	4,880.00	-	4,880.00
2b. Interest on investments	1,020.77	-	1,020.77
2c. Miscellaneous			
3. Total receipts	299,895.59		299,895.59
4. Total funds available	841,491.90		841,491.90
5. Expenditures (Section 1)	391,317.97		391,317.97
6. Balance, December 31, 2021	\$ 450,173.93	\$	\$ 450,173.93

CITY OF UNIONTOWN FAYETTE COUNTY LIQUID FUELS TAX FUND 2021 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	 Reported	/	Adjustments		Adjusted Amount
1. Prior year equipment balance	\$ 270,841.98	\$	-	\$	270,841.98
 Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2) 	59,774.96		-		59,774.96
3. PENNDOT approved adjustments	 			<u></u>	-
4. Total funds available for equipment acquisition	330,616.94		-		330,616.94
5. Less: Major equipment expenditures	 		19,079.20		19,079.20
6. Remainder	 330,616.94		(19,079.20)		311,537.74
 Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) 	\$ 330,616.94	\$	(19,079.20)	\$	311,537.74

CITY OF UNIONTOWN 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:

Adjustments

2020 - Section 1

Adjustments were made to "Minor equipment purchases" and "Repairs of tools and machinery" because expenditures of \$7,220.00 were misclassified.

2021 - Section 1

Adjustments were made to "Major equipment purchases" and "Repairs of tools and machinery" because expenditures of \$19,079.20 were misclassified.

2021 - Section 3

An adjustment of \$19,079.20 was made to "Major equipment expenditures" to reflect the adjustment made to major equipment purchases in 2021 - Section 1.

Miscellaneous Expenditures

On April 26, 2021, the municipality expended \$226.28 from the Liquid Fuels Tax Fund for public notice advertising.

Finding No. 1 - Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the city expended \$26,075.44 during 2021 from the Liquid Fuels Tax Fund for the purchase of road salt without advertising for bids. These expenditures were as follows:

Invoice	Invoice	Check	Check	Amount
<u>Number</u>	Date	<u>Number</u>	<u>Date</u>	
0656737	01/15/2021	1467	02/05/2021	\$12,912.41
0671924	03/05/2021	1475	03/05/2021	5,789.19
Various	Various	1480	04/05/2021	7,373.84
2021 Total				\$26,075.44

The above expenditures were not made in compliance with the advertising, bidding, and contract requirements of *The Third Class City Code*, 53 P.S. § 36901(b), (also found at § 1901 of *The Third Class City 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 \$21,300.00 for 2021, and \$21,900.00 for 2022. *The Third Class City Code*, 53 P.S. § 36902, and § 1902 of *The Third Class City Code* as published by the Local Government Commission further states that advertising, bidding and contract requirements should not be evaded through piecemeal purchases.

This condition occurred because the city clerk believed paperwork for their COSTARS application had been processed successfully. Had the municipality been a COSTARS member, it would have been able to make purchases from state contracts and therefore not be required to advertise for bids.

The failure to follow *The Third Class City Code* could result in the city having to reimburse \$26,075.44 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the city reimburse \$26,075.44 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the city complies with *The Third Class City Code* as noted in this finding.

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

Management's Response

The city officials stated:

Application deadline through COSTARS for salt was extended in 2020 due to COVID. Was working from home and the website would not open. Contacted a representative and was emailed a paper application. Returned by mail and got verification that it was received. I thought it was taken care of and have no explanation why the contract wasn't given.

Auditor's Conclusion

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

Finding No. 2 - Retroactive Expenditure

Our examination disclosed that the municipality expended \$7,958.64 from its Liquid Fuels Tax Fund on February 6, 2020, for work on various traffic lights incurred on May 21, 2019, which are retroactive expenditures.

The Department of Transportation's *Publication 9* contains the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter Two, Section 2.7.2, states, in relevant part:

Examples of what Liquid Fuels Tax Fund monies may not be expended for are:

16. Retroactive expenditures or repayment of other funds for prior period expenditures.

Because these expenditures were incurred on May 21, 2019, and were not paid until February 6, 2020, the expenditures incurred were not paid in a reasonable period of time. Therefore, the municipality did not comply with the Department of Transportation's *Publication 9*.

This condition occurred because the city clerk was not told work was completed and initially disputed the charge.

The failure to follow the Department of Transportation's *Publication 9* as noted above could result in the municipality having to reimburse \$7,958.64 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$7,958.64 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality complies with the Department of Transportation's *Publication 9* as noted above.

Finding No. 2 - Retroactive Expenditure (Continued)

Management's Response

The city officials stated:

There was an extension to the Green Light Go Grant for traffic lights. Was unsure the project had been done when an invoice was finally received. It needed to be reviewed to determine what it was for, and if the city was responsible. Took extra time to determine this.

Auditor's Conclusion

The Department of Transportation will determine if the municipality is required to reimburse this amount to its Liquid Fuels Tax Fund. During our next examination, we will determine if the city complied with our recommendations.

CITY OF UNIONTOWN 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 October 28, 2022. Those participating were:

CITY OF UNIONTOWN

Ms. Kimberly F. Marshall, City Clerk

DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Michele Simpson, Auditor

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

This report was initially distributed to:

Michael Carroll

Acting Secretary Department of Transportation

City of Uniontown

Fayette County 20 North Gallatin Avenue Uniontown, PA 15401

The Honorable Thomas W. Gerke Mayor

The Honorable Antoinette Hodge Treasurer

Ms. Kimberly F. Marshall City Clerk

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>.