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COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL





TOWNSHIP OF BUFFALO WASHINGTON COUNTY 62-203

LIQUID FUELS TAX FUND EXAMINATION REPORT

FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2010

CONTENTS

Page
Background1
Independent Auditor's Report
Financial Section:
2009 Form MS-965 With Adjustments7
2010 Form MS-965 With Adjustments10
Notes To Forms MS-965 With Adjustments13
Findings And Recommendations:
Finding No. 1 - Retroactive Expenditures17
Finding No. 2 - Transfer To The General Fund For Anticipated Liquid Fuels Tax Fund Expenditures
Comment19
Summary Of Exit Conference
Report Distribution

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND BACKGROUND FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2010

Background

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

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

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

The Department of Transportation has been given the regulatory authority for the administration of these funds. To qualify for its annual allocation, each municipality shall submit the following documents and information to the Department of Transportation:

- 1. Evidence that the treasurer is bonded in accordance with the law, or that its treasurer is a bank requiring no bond by January 31 of each year.
- 2. A report indicating the manner in which its liquid fuels tax allocation was expended in the previous year (Form MS-965) by January 31 of each year.
- 3. A report of elected and appointed officials by January 31 of each year.
- 4. A Survey of Financial Condition by March 15 of each year.

Department of Transportation *Publication 9* contains the policies and procedures that govern the use of Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.





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

EUGENE A. DEPASQUALE AUDITOR GENERAL

Independent Auditor's Report

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

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Township of Buffalo, Washington County, for the period January 1, 2009 to December 31, 2010. The municipality's management is responsible for the Forms MS-965. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting the Township of Buffalo, Washington County's Forms MS-965 for the period January 1, 2009 to December 31, 2010 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

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

As described in Note 4, the adjustments included on the Forms MS-965 With Adjustments are made by the Department of the Auditor General.

Independent Auditor's Report (Continued)

As discussed in Finding No. 1, the municipality paid vendor invoice No. 4306 dated August 24, 2008 for \$420.47 on April 1, 2009 and invoice No. 19012-EST dated September 7, 2009 for \$11,556.80 on February 19, 2010, which are retroactive expenditures. Also, as discussed in Finding No. 2, on March 31, 2010, the municipality transferred \$925.00 from the Liquid Fuels Tax Fund to the General Fund in anticipation of a street light repair that was not paid until the following year. Additionally, the actual repair, which was for only \$495.00, was paid from the Liquid Fuels Tax Fund on March 11, 2011, which was subsequent to our examination period.

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 Township of Buffalo, Washington County, for the period January 1, 2009 to December 31, 2010, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Forms MS-965 and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Township of Buffalo, Washington County's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the Township of Buffalo, Washington County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Township of Buffalo, Washington County's internal control.

Independent Auditor's Report (Continued)

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-965 will not be prevented or detected by the Township of Buffalo, Washington County's internal control.

Our consideration of internal control over reporting on the Forms MS-965 was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Forms MS-965.

The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Retroactive Expenditures.
- Transfer To The General Fund For Anticipated Liquid Fuels Tax Fund Expenditures.

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

Eugnet: O-Pager

June 13, 2012

EUGENE A. DEPASQUALE Auditor General



TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	 Reported	•	justments Note 4)	Adjusted Amount
Major equipment purchases	\$ -	\$	-	\$ -
Minor equipment purchases	-		-	-
Computer/Computer related training	-		-	-
Agility projects	-		-	-
Cleaning streets and gutters	-		-	-
Winter maintenance services	-		-	-
Traffic control devices	-		-	-
Street lighting	-		-	-
Storm sewers and drains	-		-	-
Repairs of tools and machinery	11,983.96		43.29	12,027.25
Maintenance and repair of roads and bridges	48,144.18		(43.29)	48,100.89
Highway construction and				
rebuilding projects	-		-	-
Miscellaneous	 _		-	 -
Total (To Section 2, Line 5)	\$ 60,128.14	\$	-	\$ 60,128.14

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Reported		d Adjustments		Adjusted Amount	
1. Balance, January 1, 2009	\$	92,462.09	\$	-	\$	92,462.09		
Receipts: 2. State allocation 2a. Turnback allocation 2b. Interest on investments (Note 3) 2c. Miscellaneous		85,892.17 - 1,054.67		- - -		85,892.17 - 1,054.67		
3. Total receipts		86,946.84		-		86,946.84		
4. Total funds available		179,408.93		_		179,408.93		
5. Expenditures (Section 1)		60,128.14		-		60,128.14		
6. Balance, December 31, 2009	\$	119,280.79	\$	_	\$	119,280.79		

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND 2009 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported		Reported		Adjustments		Adjusted Amount	
1. Prior year equipment balance	\$	32,886.66	\$	-	\$	32,886.66		
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1	17,178.43		-		17,178.43		
3. PENNDOT approved adjustments		-				-		
4. Total funds available for equipment acquisition		50,065.09		-		50,065.09		
5. Less: Major equipment expenditures						_		
6. Remainder		50,065.09		-		50,065.09		
 Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) 	\$	50,065.09	\$		\$	50,065.09		
out not less than zero)	ψ	50,005.09	φ	_	ψ	50,005.09		

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND 2010 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments (Note 4)		Adjusted Amount	
Major equipment purchases	\$	-	\$	-	\$	-
Minor equipment purchases		-		-		-
Computer/Computer related training		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		-		-		-
Traffic control devices		463.50		925.00		1,388.50
Street lighting		925.00		(925.00)		-
Storm sewers and drains		-		-		-
Repairs of tools and machinery		10,267.37		-		10,267.37
Maintenance and repair of						
roads and bridges		149,246.92		-		149,246.92
Highway construction and						
rebuilding projects		-		-		-
Miscellaneous		-		-		-
Total (To Section 2, Line 5)	\$	160,902.79	\$	-	\$	160,902.79

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND 2010 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Reported Adjustments		Adjusted Amount	
1. Balance, January 1, 2010	\$	119,280.79	\$	-	\$	119,280.79
Receipts: 2. State allocation		82,483.41		_		82,483.41
2a. Turnback allocation		-		-		-
2b. Interest on investments (Note 3)2c. Miscellaneous (Comment)		420.62 70,923.37		-		420.62 70,923.37
3. Total receipts		153,827.40		-		153,827.40
4. Total funds available		273,108.19		-		273,108.19
5. Expenditures (Section 1)		160,902.79		-		160,902.79
6. Balance, December 31, 2010	\$	112,205.40	\$	-	\$	112,205.40

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND 2010 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance]	Reported	Adju	stments		Adjusted Amount
1. Prior year equipment balance	\$	50,065.09	\$	-	\$	50,065.09
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1	16,496.68		-		16,496.68
3. PENNDOT approved adjustments						
4. Total funds available for equipment acquisition		66,561.77		-		66,561.77
5. Less: Major equipment expenditures		-				-
6. Remainder		66,561.77		-		66,561.77
 For subsequent balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) 	\$	66,561.77	\$		\$	66,561.77
out not less than zero)	φ	00,301.77	φ	-	φ	00,301.77

1. <u>Criteria</u>

Section 1

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

- Major equipment purchases are purchases of road machinery and road equipment that cost in excess of \$4,000.00.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00 or less.
- Agility projects are exchanges of services with the Department of Transportation.

Section 2

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

- The state allocation is generally received from the Department of Transportation during the first week in April of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- The turnback allocation is generally received from the Department of Transportation during the first week in April of each year. A municipality receives a yearly turnback allocation based on road mileage for all roads that were transferred to the municipality from the Commonwealth of Pennsylvania through the Highway Transfer Program.
- Expenditures include the total transferred from Section 1.

Section 3

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

1. <u>Criteria (Continued)</u>

Section 3 (Continued)

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

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

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

Basis Of Presentation

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

Basis Of Accounting

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

1. <u>Criteria (Continued)</u>

General Fixed Assets

General fixed assets are recognized as expenditures at the time of purchase. No depreciation has been provided on the heavy equipment used to maintain and repair roads and bridges.

2. <u>Deposits</u>

The Second Class Township Code, Title 53 P.S. § 68204, authorizes the township to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit purchased from institutions insured by the FDIC or other like insurance to the extent that such accounts are so insured. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loan's or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in a financial institution. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

There were no deposits exposed to custodial credit risk as of December 31, 2010. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the municipality's name.

2. <u>Deposits (Continued)</u>

Fund Balance

The fund balance as of December 31, 2010 consists of the following:

Cash

\$112,205.40

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$1,054.67 during 2009, and \$420.62 during 2010, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2009 - Section 1

Adjustments were made to "Repairs of tools and machinery" and "Maintenance and repair of roads and bridges" because expenditures of \$43.29 were misclassified.

2010 - Section 1

Adjustments were made to "Traffic control devices" and "Street lighting" because expenditures of \$925.00 were misclassified.

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2010

Finding No. 1 - Retroactive Expenditures

Our examination disclosed that the municipality paid vendor invoice No. 4306 dated August 24, 2008 for \$420.47 on April 1, 2009 and invoice No. 19012-EST dated September 7, 2009 for \$11,556.80 on February 19, 2010, 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:

- 8. Repayments of prior year's expenditures.
- 17. Retroactive expenditures or repayment of other funds for prior period expenditures.

Because these expenditures were incurred on August 24, 2008 and September 7, 2009, and were not paid until April 1, 2009 and February 19, 2010, respectively, 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*.

The failure to follow the Department of Transportation's *Publication 9* as noted above could result in the municipality having to reimburse \$11,977.27 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$11,977.27 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

Management's Response

The municipal officials offered no formal response at this time.

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2010

Finding No. 2 - Transfer To The General Fund For Anticipated Liquid Fuels Tax Fund Expenditures

Our examination disclosed that on March 31, 2010, the municipality transferred \$925.00 from the Liquid Fuels Tax Fund to the General Fund in anticipation of a street light repair that was not paid until the following year. Additionally, the actual repair, which was for only \$495.00, was paid from the Liquid Fuels Tax Fund on March 11, 2011, which was subsequent to our examination period.

The practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account in anticipation of future expenditures is contrary to the Act of June 1, 1956, P.L. (1955) 1944, 72 P.S. § 2615.5, known as the Liquid Fuels Tax Municipal Allocation Law, which states:

. . .each city, borough, town and township, shall . . . Establish and maintain a special fund into which the moneys [liquid fuels tax funds] . . . shall be deposited and into which no other moneys may be deposited or commingled . . .

Good internal accounting controls ensure that disbursements are made from the Liquid Fuels Tax Fund for only expenditures incurred. When Liquid Fuels Tax Fund money is commingled with the General Fund, or other funds, the potential for Liquid Fuels Tax Fund money to be used for unauthorized purposes increases significantly.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law as noted above could result in the municipality having to reimburse \$925.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$925.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality only disburse funds from the Liquid Fuels Tax Fund for expenditures incurred.

Management's Response

The municipal officials offered no formal response at this time.

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND COMMENT FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2010

Comment - Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination findings to determine if the municipality should reimburse \$70,923.37 to its Liquid Fuels Tax Fund This amount consists of \$46,248.00 for the failure to maintain documentation to support expenditures, \$12,349.26 for the purchase of stone made without advertising for bids, and \$12,326.11 for the purchase of road oil without obtaining price quotations.

During our current examination we reviewed a letter dated November 5, 2010, from the Department of Transportation informing the municipality to reimburse \$70,923.37 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on December 20, 2010.

In our prior report we also recommended:

- That in the future, the municipality ensure good internal control over expenditures by maintaining adequate documentation to support all expenditures.
- That in the future, the municipality comply with the *Second Class Township Code* and the Department of Transportation's *Publication 9* by advertising for bids for purchases over \$10,000.00 and by maintaining documentation for price quotations for purchases between \$4,000.00 and \$10,000.00.

During our current examination we noted that the municipality complied with our recommendations.

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2010

An exit conference was held June 13, 2012. Those participating were:

TOWNSHIP OF BUFFALO

Mrs. Karen Bedillion, Administrative Assistant

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Paul Palombo, Auditor

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

TOWNSHIP OF BUFFALO WASHINGTON COUNTY LIQUID FUELS TAX FUND REPORT DISTRIBUTION FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2010

This report was initially distributed to:

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

> Township of Buffalo Washington County 400 Buffalo Center Lane Washington, PA 15301

The Honorable Jack Levy	Chairman of the Board of Supervisors
The Honorable Stephanie S. Gallagher	Supervisor/Secretary/Treasurer
Mrs. Karen Bedillion	Administrative Assistant

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