

BOROUGH OF WATTSBURG  
ERIE COUNTY  
25-415

LIQUID FUELS TAX FUND  
EXAMINATION REPORT

FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

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BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

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.

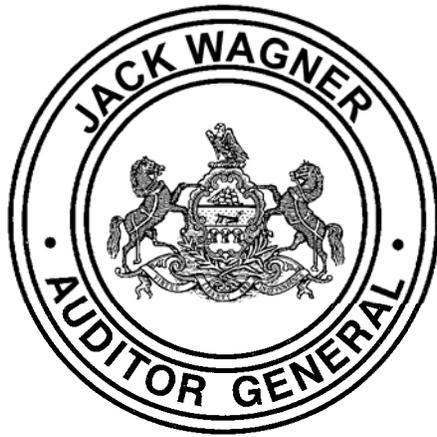
*The Vehicle Code*, Title 75 P.S. § 9511, provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

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.





**Department of the Auditor General  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER  
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 Borough of Wattsburg, Erie County, for the two years ended December 31, 2009. 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 Borough of Wattsburg, Erie County's Forms MS-965 for the two years ended December 31, 2009 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.

As discussed in Finding No. 3, the borough expended \$7,670.40 for snow plowing during the 2007-2008 season. However, the borough did not award the contract to the lowest responsible bidder. By not awarding the contract to the lowest responsible bidder the borough expended

### Independent Auditor's Report (Continued)

\$5,433.20 more for snow plowing costs for the 2007-2008 plowing season. Additionally, the municipality expended \$8,085.00 for snow plowing during the 2008-2009 season. We noted that neither contract was properly advertised. Additionally, as discussed in Finding No. 4, the borough overexpended \$14,084.00 and \$10,981.00 of Liquid Fuels Tax Fund money on project No. 08-25-415-01CA and project No. 09-25-415-01CA, respectively. The borough reimbursed \$13,322.75 to its Liquid Fuels Tax Fund on February 13, 2009, leaving a balance of \$11,742.25 due the Liquid Fuels Tax Fund. Furthermore, as discussed in Finding No. 5, the borough did not receive its 2009 Liquid Fuels Tax Fund allocation until January 14, 2010, 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 Borough of Wattsburg, Erie County, for the two years ended December 31, 2009, 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 Borough of Wattsburg, Erie 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 Borough of Wattsburg, Erie County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the Borough of Wattsburg, Erie County's internal control. We consider the deficiency described in the findings below to be significant deficiencies in internal control over reporting on the Forms MS-965:

Independent Auditor's Report (Continued)

- The Practice Of Presigning Checks Should Be Discontinued.
- Electronic Imaging Of Canceled Checks From The Bank Did Not Include The Back Of The Checks.

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 Borough of Wattsburg, Erie County's internal control. Our consideration of the internal control over reporting on the Forms MS-965 would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. We consider all of the significant deficiencies described above to be material weaknesses.

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

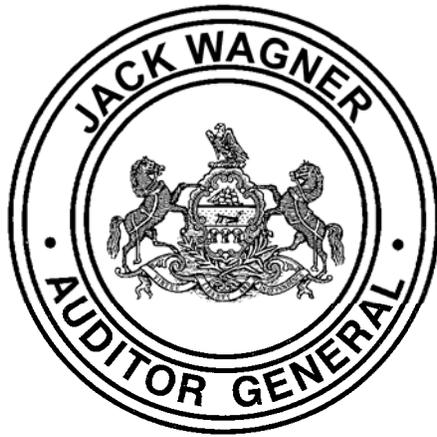
- Contracts Were Not Awarded To The Lowest Responsible Bidder Nor Were They Properly Advertised.
- Liquid Fuels Money Overexpended On Projects.
- Late Receipt Of Allocations.

We are concerned in light of the municipality's failure to correct a previously reported finding regarding electronic images of canceled checks from the bank not including the back of the check. The municipality should strive to implement the recommendations and corrective actions noted in this report.

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

April 12, 2010

JACK WAGNER  
Auditor General



BOROUGH OF WATTSBURG  
 ERIE COUNTY  
 LIQUID FUELS TAX FUND  
 2008 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	364.95	-	364.95
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	292.26	-	292.26
Winter maintenance services	10,807.54	-	10,807.54
Traffic control devices	246.84	-	246.84
Street lighting	5,626.76	20.00	5,646.76
Storm sewers and drains	3,381.03	-	3,381.03
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	686.86	1,754.62	2,441.48
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Note 6)	1,784.62	(1,774.62)	10.00
	<u>1,784.62</u>	<u>(1,774.62)</u>	<u>10.00</u>
Total (To Section 2, Line 5)	<u>\$ 23,190.86</u>	<u>\$ -</u>	<u>\$ 23,190.86</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

BOROUGH OF WATTSBURG  
 ERIE COUNTY  
 LIQUID FUELS TAX FUND  
 2008 FORM MS-965 – SECTION 2  
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2008	\$ 32,060.84	\$ -	\$ 32,060.84
Receipts:			
2. State allocation	9,567.93	-	9,567.93
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	59.72	5.25	64.97
2c. Miscellaneous (Note 5)	1,100.00	-	1,100.00
3. Total receipts	<u>10,727.65</u>	<u>5.25</u>	<u>10,732.90</u>
4. Total funds available	<u>42,788.49</u>	<u>5.25</u>	<u>42,793.74</u>
5. Expenditures (Section 1)	<u>23,190.86</u>	-	<u>23,190.86</u>
6. Balance, December 31, 2008	<u><u>\$ 19,597.63</u></u>	<u><u>\$ 5.25</u></u>	<u><u>\$ 19,602.88</u></u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

BOROUGH OF WATTSBURG  
 ERIE COUNTY  
 LIQUID FUELS TAX FUND  
 2008 FORM MS-965 – SECTION 3  
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 17,110.01	\$ (1,737.33)	\$ 15,372.68
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	1,913.58	-	1,913.58
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	19,023.59	(1,737.33)	17,286.26
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>19,023.59</u>	<u>(1,737.33)</u>	<u>17,286.26</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 19,023.59</u>	<u>\$ (1,737.33)</u>	<u>\$ 17,286.26</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

BOROUGH OF WATTSBURG  
 ERIE COUNTY  
 LIQUID FUELS TAX FUND  
 2009 FORM MS-965 – SECTION 1  
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	323.40	-	323.40
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	7,013.67	-	7,013.67
Traffic control devices	-	-	-
Street lighting	6,103.81	-	6,103.81
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	214.07	-	214.07
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Note 6)	3,536.33	-	3,536.33
 Total (To Section 2, Line 5)	 <u>\$ 17,191.28</u>	 <u>\$ -</u>	 <u>\$ 17,191.28</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

BOROUGH OF WATTSBURG  
 ERIE COUNTY  
 LIQUID FUELS TAX FUND  
 2009 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, 2009	\$ 19,602.88	\$ -	\$ 19,602.88
Receipts:			
2. State allocation (Finding)	-	-	-
2a. Turnback allocation	-	-	-
2b. Interest on investments (Note 3)	39.94	-	39.94
2c. Miscellaneous (Note 5)	13,322.75	-	13,322.75
3. Total receipts	<u>13,362.69</u>	<u>-</u>	<u>13,362.69</u>
4. Total funds available	<u>32,965.57</u>	<u>-</u>	<u>32,965.57</u>
5. Expenditures (Section 1)	<u>17,191.28</u>	<u>-</u>	<u>17,191.28</u>
6. Balance, December 31, 2009	<u><u>\$ 15,774.29</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 15,774.29</u></u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

BOROUGH OF WATTSBURG  
 ERIE COUNTY  
 LIQUID FUELS TAX FUND  
 2009 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	\$ 17,286.26	\$ -	\$ 17,286.26
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	-	-	-
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	17,286.26	-	17,286.26
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>17,286.26</u>	<u>-</u>	<u>17,286.26</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 15,774.29</u>	<u>\$ -</u>	<u>\$ 15,774.29</u>

Notes to Forms MS-965 With Adjustments are an integral part of this report.

BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

1. Criteria

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.

BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

1. Criteria (Continued)

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.

BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

1. Criteria (Continued)

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. Deposits

*The Borough Code*, Title 53 P.S § 46316, authorizes the borough 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, 2009. 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.

BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

2. Deposits (Continued)

Fund Balance

The fund balance as of December 31, 2009 consists of the following:

Cash	<u>\$15,774.29</u>
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3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$64.97 during 2008, and \$39.94 during 2009, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2008 - Section 1

Adjustments were made to “Street lighting,” “Maintenance and repair of roads and bridges,” and “Miscellaneous” because expenditures of \$1,774.62 were misclassified.

2008 - Section 2

An adjustment of \$5.25 was made to “Interest on investments” because interest earnings were understated.

2008 - Section 3

An adjustment of \$(1,737.33) was made to “Prior year equipment balance” because adjustments made in the prior report were not carried forward in the equipment balance.

BOROUGH OF WATTSBURG  
 ERIE COUNTY  
 LIQUID FUELS TAX FUND  
 NOTES TO FORMS MS-965 WITH ADJUSTMENTS  
 FOR THE TWO YEARS ENDED  
 DECEMBER 31, 2009

5. Miscellaneous Receipts

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

<u>Source</u>	<u>Description</u>	<u>2008</u>	<u>2009</u>
Insurance company	Reimbursement for damages	\$1,100.00	\$ -
Erie County	County aid (Finding No. 4)	<u>-</u>	<u>13,322.75</u>
Totals		<u>\$1,100.00</u>	<u>\$13,322.75</u>

6. Miscellaneous Expenditures

The following miscellaneous expenditures were paid from the Liquid Fuels Tax Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>2008</u>	<u>2009</u>
Resident	Copies	\$10.00	\$ -
Erie County Domestic Relations	Court ordered levy for employee	-	706.72
United States Treasury	IRS tax levy for employee	<u>-</u>	<u>2,829.61</u>
Totals		<u>\$10.00</u>	<u>\$3,536.33</u>



BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

Finding No. 1 - The Practice Of Presigning Checks Should Be Discontinued

Our examination disclosed that the municipal officials signed blank checks from the Liquid Fuels Tax Fund. This practice circumvents internal accounting controls and should be discontinued immediately.

Good internal control procedures require that checks be signed only after the payee, date, and amount to be paid have been confirmed. Additionally, responsible officials should compare this information with other supporting documentation, invoices, contracts, etc., prior to approving the checks.

Without these controls, the risk of unauthorized disbursements, errors, or misappropriations occurring and remaining undetected increases significantly.

Recommendation

We recommend that the municipality discontinue the practice of presigning Liquid Fuels Tax Fund checks.

Management's Response

The municipal officials stated:

The Wattsburg Borough Council no longer presigns checks in any of the bank accounts. This was all done by previous Council members.

Auditor's Conclusion

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

BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

Finding No. 2 - Electronic Imaging Of Canceled Checks From The Bank Did Not Include The  
Back Of The Checks

Our examination disclosed that the imaging of canceled checks from the bank for the Liquid Fuels Tax Fund account was not acceptable because the bank provides only an image of the front side of the canceled checks. For us to properly complete our examination testing, we have to examine the front and the back of the canceled checks.

Good internal controls and the Commonwealth of Pennsylvania Management Directive 210.11, dated June 16, 1997, require that imaging systems comply with the provisions of the Internal Revenue Service (IRS) procedures for record keeping with electronic imaging. To be acceptable, the documents provided by the system must meet IRS procedures governing size, content, format, and pattern. Those procedures require that all images produced by the imaging system exhibit a high degree of legibility and readability when displayed on paper. Legibility includes the ability to identify all letters and numerals positively and quickly. Readability includes the ability to recognize a group of letters or numerals as words or completed numbers. Imaged documents must include the front and back of a document in which both the front and back are used.

Further, good internal controls ensure that by having a municipal official review the front and back of the canceled checks, any errors or misappropriations can be detected on a timely basis.

Without this control, the potential exists for errors or irregularities to go undetected for long periods of time.

The municipality obtained and provided us with copies of the backs of the canceled checks requested for examination.

A similar finding was also written in our prior report.

Recommendations

We again recommend that the municipal officials obtain images of the front and back of canceled checks in accordance with Directive 210.11. Additionally, municipal officials should review the front and back of each canceled check for any errors or irregularities.

BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

Finding No. 2 - Electronic Imaging Of Canceled Checks From The Bank Did Not Include The  
Back Of The Checks (Continued)

Management's Response

The municipal officials stated:

The electronic imaging of canceled checks is done monthly and a copy is placed with the bank statements each month. The finding was addressed with online banking where all copies are available.

Auditor's Conclusion

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

BOROUGH OF WATTSBURG  
 ERIE COUNTY  
 LIQUID FUELS TAX FUND  
 FINDINGS AND RECOMMENDATIONS  
 FOR THE TWO YEARS ENDED  
 DECEMBER 31, 2009

Finding No. 3 - Contracts Were Not Awarded To The Lowest Responsible Bidder Nor Were They Properly Advertised

Our examination disclosed that the borough expended \$7,670.40 for snow plowing during the 2007-2008 season. The borough advertised for bids for snow plowing on September 17, 2007 for the 2007-2008 snow plowing season to be opened on October 1, 2007. The borough received three bids as follows:

Vendor A	\$35.00 per hour
Vendor B	\$240.00 per plow (calculates to \$120 per hour)
Vendor C	\$12,750.00 per season (unable to calculate a hourly rate)

Although Vendor A was low bidder, the borough awarded the bid to Vendor B. By not awarding the contract to Vendor A the borough expended \$5,433.20 more for snow plowing costs for the 2007-2008 plowing season as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Hours</u>	<u>Price Difference</u>	<u>Amount</u>
None	12/31/07	11.00	\$85.00	\$ 935.00
None	01/31/08	22.00	\$85.00	1,870.00
None	02/29/08	16.00	\$85.00	1,360.00
None	03/31/08	12.00	\$85.00	1,020.00
None	10/27/08	2.92	\$85.00	248.20
2007 - 2008	Season Total			<u>\$5,433.20</u>

There was nothing in the minutes of the borough council meeting of October 1, 2007 that would explain why the lowest responsible bidder was not awarded the snow removal contract for the 2007-2008 season.

We further noted that the borough expended \$8,085.00 for snow plowing during the 2008-2009 season. The borough advertised for snow plowing on September 24, 2008 for the 2008-2009 snow plowing season to be opened on October 6, 2008. The borough received two bids as follows:

Vendor D	\$50 per hour
Vendor B	\$245 per plow (calculates to \$122.50 per hour)

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Finding No. 3 - Contracts Were Not Awarded To The Lowest Responsible Bidder Nor Were They Properly Advertised (Continued)

On October 18, 2008 the borough tabled the bids until November because there was no second on a motion to award the bids. The borough readvertised for bids on November 10, 2008 to be opened on November 13, 2008. Vendor B again submitted a bid for \$245.00 per plow that was accepted. No other bids were received.

We noted that both contracts were not advertised properly because the borough did not advertise either advertisement twice as required. Additionally, the 2008-2009 contract was advertised for three days before the bid opening. Advertisements are required to be no less than ten days before bid opening.

By not awarding the bid to the lowest responsible bidder for the 2007-2008 season and by not properly advertising for bids for both seasons, the borough did not comply with *The Borough Code*, 53 P.S. § 46402, states:

All contracts or purchases in excess of ten thousand dollars (\$10,000)... shall not be made except with and from the lowest bidder after due notice in one newspaper of general circulation in the borough, at least two times at intervals of not less than three days where daily newspapers of general circulation are available for such publication, in case of weekly newspapers, such notice once a week for two successive weeks. The first advertisement shall be published not more than 45 days and the second advertisement not less than ten days prior to the date fixed for the opening of bids.

This information is also published in § 1402 of *The Borough Code* as published by the Local Government Commission.

The failure to comply with *The Borough Code* could result in the borough having to reimburse \$15,755.40 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the borough reimburse \$15,755.40 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the borough comply with *The Borough Code* as stated above.

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Finding No. 3 - Contracts Were Not Awarded To The Lowest Responsible Bidder Nor Were They Properly Advertised (Continued)

Management's Response

The borough officials stated:

The Audit Finding, that snow plow contracts were not awarded to the lowest responsible bidder, was made utilizing incomplete information, as well as utilizing data which was not available to the Borough at the time of contract award.

First, the Audit Finding does not take into account information which may have been available to the Borough pertaining to equipment available to the contractor for the work within the Borough. Additionally, the Audit does not take into account the statement in the November 13, 2008 Borough Council minutes which provided that there was, at that point, only one bid submitted to the Borough. It appears as if the previous bids had been withdrawn.

Second, the Audit Finding was premised upon a comparison of how much was expended by the Borough to the selected contractor, who charged a flat fee per plow, as opposed to how much it would have cost the Borough if it had awarded the contract to a contractor who previously bid an hourly rate. The Borough Council made the determination to select the contractor as, pursuant to the November 13, 2008 Borough Council minutes, there was only one bid available to the Council to choose from. Even if the previous bidders had held their bids for the November 13, 2008 meeting, Council would have been unable to undertake the evaluation that was undertaken by the Auditors as this data would not have been available to the Borough Council at the time of contract award.

Auditor's Conclusion

*The Borough Code* states that contracts over \$10,000.00 must be awarded to the lowest responsible bidder. When advertising for bids for snow plowing in the future the borough should advertise for an hourly rate to ensure that it is able to adequately compare bids. Additionally, neither of the two contracts were properly advertised in accordance with *The Borough Code*.

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Finding No. 4 - Liquid Fuels Money Overexpended On Projects

Our examination disclosed that the municipality expended \$14,440.00 of Liquid Fuels Tax Fund money on project No. 08-25-415-01CA. However, the amount approved to be expended from the Liquid Fuels Tax Fund for this project was \$356.00. The difference of \$14,084.00 should have been paid directly from the General Fund. Additionally, the municipality expended \$13,315.00 of Liquid Fuels Tax Fund money on project No. 09-25-415-01CA. However, the amount approved to be expended from the Liquid Fuels Tax Fund for this project was \$2,334.00. The difference of \$10,981.00 should have been paid directly from the General Fund.

The Department of Transportation's Regulations do not permit a municipality to expend Liquid Fuels Tax Fund money in excess of the amount approved on Municipal Services Completion Report Form MS-999.

On February 13, 2009, the municipality reimbursed \$13,322.75 to its Liquid Fuels Tax Fund.

The failure to comply with the Department of Transportation's Regulations could result in the borough having to reimburse \$11,742.25 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$11,742.25 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality expend only the approved amount of Liquid Fuels Tax Fund money on county aid projects.

Management's Response

The municipal officials offered no formal response at this time.

BOROUGH OF WATTSBURG  
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Finding No. 5 - Late Receipt Of Allocations

Our examination disclosed that the 2008 Liquid Fuels Tax Fund allocation, which should have been distributed during the first week of April of that year, was not received until May 7, 2008. Our examination also disclosed that the 2009 Liquid Fuels Tax Fund allocation, which should have been distributed during the first week of April of 2009, was not received until January 14, 2010, which was subsequent to our examination. Because the municipality failed to comply with the Department of Transportation's *Publication 9*, Chapter Two, Section 2.4, which states:

To qualify for the annual liquid fuels tax allocation, a municipality shall:

- Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks)
- Make deposits and payments or expenditures in compliance with the Act 655. Failure to do so may result in not receiving allocations from PENNDOT until all discrepancies are resolved.
- Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elect and Appointed Officials by January 31<sup>st</sup> and the Survey of Financial Condition by March 15<sup>th</sup>.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the 2008 allocation for approximately one month and the 2009 allocation for more than nine months. Furthermore, had the allocations been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.

Recommendation

We recommend that, in the future, the municipality comply with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in April as outlined above.

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Finding No. 5 - Late Receipt Of Allocations (Continued)

Management's Response

The municipal officials stated:

Wrote to The Department of Transportation for an explanation as to why the money was held back. We can't seem to find an answer to this.

Auditor's Conclusion

The municipal officials should comply with *Publication 9* as stated above. During our next examination we will determine if the municipality complied with our recommendation.

BOROUGH OF WATTSBURG  
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LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE TWO YEARS ENDED  
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An exit conference was held April 12, 2010. Those participating were:

BOROUGH OF WATTSBURG

The Honorable Donna M. Horn, Mayor  
The Honorable Earl Duda, President of Council  
The Honorable William C. Senyo, Councilman  
Mrs. Kimberly A. Ayers, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Ortenzia M. Keller, Auditor

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

BOROUGH OF WATTSBURG  
ERIE COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE TWO YEARS ENDED  
DECEMBER 31, 2009

This report was initially distributed to:

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

Borough of Wattsburg  
Erie County  
14431 Main Street  
P.O. Box 136  
Wattsburg, PA 16442-0136

The Honorable Donna M. Horn	Mayor
The Honorable Earl Duda	President of Council
Mrs. Kimberly A. Ayers	Secretary/Treasurer

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, 318 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](http://www.auditorgen.state.pa.us).