

# ATTESTATION ENGAGEMENT

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**Borough of West Chester**  
Chester County, Pennsylvania  
15-414  
**Liquid Fuels Tax Fund**  
For the Period  
January 1, 2019 to December 31, 2020

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July 2022



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  
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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 Borough of West Chester, Chester County, for the period January 1, 2019 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.

As discussed in the Finding And Recommendations section of this report, the municipality expended \$404,521.00 for project No. 19-15414-001. Final payment for this project was made on December 30, 2019, but a Final Completion Report Form MS-999 was not filed with the Department of Transportation by March 30, 2022, the exit conference date of our examination.

## Independent Auditor's Report (Continued)

In our opinion, except for the matter 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 West Chester, Chester County, for the period January 1, 2019 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.

*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 Borough of West Chester, Chester 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*:

- Failure To Timely Submit Final Completion Report.

Independent Auditor's Report (Continued)

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 Borough of West Chester, Chester 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 line extending to the left of the first letter.

Timothy L. DeFoor  
Auditor General  
July 5, 2022

# CONTENTS

	<u>Page</u>
Background.....	1
Financial Section:	
2019 Form MS-965 With Adjustments .....	5
2020 Form MS-965 With Adjustments .....	8
Auditor Description Of Select Transactions.....	11
Finding And Recommendations:	
Finding - Failure To Timely Submit Final Completion Report .....	12
Summary Of Prior Examination Recommendation .....	14
Summary Of Exit Conference.....	15
Report Distribution .....	16

BOROUGH OF WEST CHESTER  
CHESTER COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

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 these funds to municipalities is based upon: (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.

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.

BOROUGH OF WEST CHESTER  
 CHESTER COUNTY  
 LIQUID FUELS TAX FUND  
 BACKGROUND  
 FOR THE PERIOD  
 JANUARY 1, 2019 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.

BOROUGH OF WEST CHESTER  
CHESTER COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2019 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.



BOROUGH OF WEST CHESTER  
CHESTER COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2019 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.

BOROUGH OF WEST CHESTER  
 CHESTER 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	-	-	-
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	-	-	-
Highway construction and rebuilding projects	404,521.00	-	404,521.00
Miscellaneous	277.12	-	277.12
	<hr/>	<hr/>	<hr/>
Total (To Section 2, Line 5)	<u>\$ 404,798.12</u>	<u>\$ -</u>	<u>\$ 404,798.12</u>

BOROUGH OF WEST CHESTER  
 CHESTER 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	\$ 339,509.09	\$ -	\$ 339,509.09
Receipts:			
2. State allocation	461,500.34	-	461,500.34
2a. Turnback allocation	-	-	-
2b. Interest on investments	3,082.41	-	3,082.41
2c. Miscellaneous	-	-	-
3. Total receipts	<u>464,582.75</u>	<u>-</u>	<u>464,582.75</u>
4. Total funds available	<u>804,091.84</u>	<u>-</u>	<u>804,091.84</u>
5. Expenditures (Section 1)	<u>404,798.12</u>	<u>-</u>	<u>404,798.12</u>
6. Balance, December 31, 2019	<u><u>\$ 399,293.72</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 399,293.72</u></u>

BOROUGH OF WEST CHESTER  
 CHESTER 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	\$ 366,247.60	\$ -	\$ 366,247.60
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	92,300.07	-	92,300.07
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	458,547.67	-	458,547.67
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>458,547.67</u>	<u>-</u>	<u>458,547.67</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 399,293.72</u>	<u>\$ -</u>	<u>\$ 399,293.72</u>

BOROUGH OF WEST CHESTER  
 CHESTER 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	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	54.00	-	54.00
Street lighting	17,413.42	-	17,413.42
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	1,130.25	-	1,130.25
Highway construction and rebuilding projects	-	-	-
Miscellaneous	273.59	-	273.59
 Total (To Section 2, Line 5)	 <u>\$ 18,871.26</u>	 <u>\$ -</u>	 <u>\$ 18,871.26</u>

BOROUGH OF WEST CHESTER  
 CHESTER 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	\$ 399,293.72	\$ -	\$ 399,293.72
Receipts:			
2. State allocation	449,206.00	-	449,206.00
2a. Turnback allocation	-	-	-
2b. Interest on investments	1,013.24	-	1,013.24
2c. Miscellaneous	-	-	-
3. Total receipts	<u>450,219.24</u>	<u>-</u>	<u>450,219.24</u>
4. Total funds available	<u>849,512.96</u>	<u>-</u>	<u>849,512.96</u>
5. Expenditures (Section 1)	<u>18,871.26</u>	<u>-</u>	<u>18,871.26</u>
6. Balance, December 31, 2020	<u><u>\$ 830,641.70</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 830,641.70</u></u>

BOROUGH OF WEST CHESTER  
 CHESTER 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	\$ 399,293.72	\$ -	\$ 399,293.72
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	89,841.20	-	89,841.20
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	489,134.92	-	489,134.92
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>489,134.92</u>	<u>-</u>	<u>489,134.92</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 489,134.92</u>	<u>\$ -</u>	<u>\$ 489,134.92</u>

BOROUGH OF WEST CHESTER  
 CHESTER COUNTY  
 LIQUID FUELS TAX FUND  
 AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
 FOR THE PERIOD  
 JANUARY 1, 2019 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.

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>2019</u>	<u>2020</u>
Financial Institution	Bank Fees	<u>\$277.12</u>	<u>\$273.59</u>



BOROUGH OF WEST CHESTER  
CHESTER COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding - Failure To Timely Submit Final Completion Report**

Our examination disclosed that the municipality expended \$404,521.00 for project No. 19-15414-001. Final payment for this project was made on December 30, 2019, but a Final Completion Report Form MS-999 was not filed with the Department of Transportation as of the date of the exit conference for our examination, March 30, 2022.

The Department of Transportation's *Publication 9* outlines the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter Two, Section 2.8, states, in relevant part:

9. Upon completion of the project, local officials shall complete Form MS-999, Project Completion Report, and submit this form to the Municipal Services Representatives... The MS-999 must reflect actual quantities used and the total cost of the project. It shall also indicate the distribution of costs to the approved funding sources for the project.

The borough stated that the condition occurred because the borough's project manager assigned to complete this task had terminated employment.

Because the municipality failed to file a Final Completion Report, we were unable to determine if the project was completed to the satisfaction of the Department of Transportation. Additionally, we were unable to determine if the municipality expended the approved amount of Liquid Fuels Tax Fund money on the project.

**Recommendations**

We recommend that the municipality reimburse \$404,521.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

Additionally, we recommend that the municipality submit a completed Form MS-999 to the Department of Transportation for the project.

We further recommend that, in the future, the municipality complies with the Department of Transportation's *Publication 9* by submitting a Final Completion Report Form MS-999 for completed projects in a timely manner.

BOROUGH OF WEST CHESTER  
CHESTER COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding - Failure To Timely Submit Final Completion Report (Continued)**

Management's Response

The finance director stated:

The borough's project manager for this project terminated employment in early 2020 and then Covid hit. While the MS-999 was not completed, this project was approved by PennDOT on September 3, 2019. Project 19-15414-001 was inspected and approved. The funds were used for a legitimate Liquid Fuels project. The borough was approved by PennDOT for this project. We used the funds for permissible purposes but did not close this project completely out by not completing the MS-999. I don't agree that \$404,521.00 should be transferred back into Liquid Fuels because we spent the funds on an approved PennDOT Project.

Auditor's Conclusion

The Department of Transportation will determine if \$404,521.00 will be required to be reimbursed to the municipality's Liquid Fuels Tax Fund. During our next examination, we will determine if the municipality complied with our recommendations.

BOROUGH OF WEST CHESTER  
CHESTER COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

Summary Of Prior Examination Recommendation

In our prior report, we recommended that the borough file all required documents and information timely to receive its allocation during the first week in March.

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

BOROUGH OF WEST CHESTER  
CHESTER COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

An exit conference was held March 30, 2022. Those participating were:

BOROUGH OF WEST CHESTER

Ms. Barbara Lioni, Finance Director

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Vince Gillen, Auditor

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

BOROUGH OF WEST CHESTER  
CHESTER COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

This report was initially distributed to:

**The Honorable Yassmin Gramian, P.E.**  
Secretary  
Department of Transportation

**Borough of West Chester**  
Chester County  
401 East Gay Street  
West Chester, PA 19380

**The Honorable Michael Stephano**  
President of Council

**Ms. Barbara Lioni**  
Finance Director

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). 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: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).