

ATTESTATION ENGAGEMENT

Borough of Darby
Delaware County, Pennsylvania
23-407
Liquid Fuels Tax Fund
For the Period
January 1, 2018 to December 31, 2020

March 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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TIMOTHY L. DEFOOR
AUDITOR GENERAL

Independent Auditor's Report

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 Borough of Darby, Delaware County, for the period January 1, 2018 to December 31, 2020. The municipality's management is responsible for presenting the Forms MS-965 in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms MS-965 are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms MS-965. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Forms MS-965, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are 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 And Recommendations section of this report:

- The municipality did not maintain documentation, such as invoices or payroll records, to support a transfer to the Sewer Fund of \$155,000.00 on October 12, 2018, and a transfer to the General Fund of \$20,000.00 on February 1, 2019 (see Finding No. 1).
- The municipality expended \$82,448.88 from its Liquid Fuels Tax Fund on a loan for the implementation of LED streetlights and other outdoor lighting improvement measures within the municipality without obtaining the approval of the Department of Transportation (see Finding No. 2).
- The municipality expended \$4,620.00 from its Liquid Fuels Tax Fund in excess of the approved amount for a project (see Finding No. 3).
- The municipality expended \$1,480.43 during 2018 from its Liquid Fuels Tax Fund on heating the administrative building, which is a nonpermissible expenditure.

As discussed in the Summary Of Prior Examinations' Recommendations section of this report:

- In our 2016 report, we recommended that the municipality reimburse a total of \$383,520.23 to its Liquid Fuels Tax Fund. As of the exit conference date of this report of January 20, 2023, \$201,057.00 remained due the municipality's Liquid Fuels Tax Fund.

In our opinion, except for the matters discussed above, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of Darby, Delaware County, for the period January 1, 2018 to December 31, 2020, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms MS-965; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Forms MS-965. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

Independent Auditor's Report (Continued)

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Forms MS-965 will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose of expressing an opinion on whether the Form MS-965 is presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did identify a certain deficiency in internal control, described in the finding listed below, that we consider to be a material weakness in internal control:

- Documentation Supporting Transfers Was Not Available For Examination.

As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of Borough of Darby, Delaware County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Forms MS-965. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Failure To Obtain Project Approval - Recurring.
- Liquid Fuels Money Over Expended On Project.
- Nonpermissible Expenditures.

We also noted a matter that, while not required to be included in this report by *Government Auditing Standards*, have been included in the findings below:

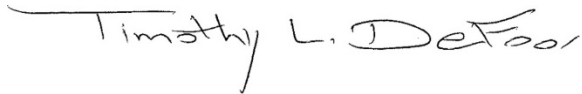
- Late Receipt Of Allocations.

Independent Auditor's Report (Continued)

The examination finding for failure to obtain project approval contained in this report cites a condition that existed in the operation of the municipality during the previous engagement period and was not corrected during the current examination period. The municipality should strive to comply with the recommendations in this report.

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 Darby, Delaware 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
February 23, 2023

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BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, 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 DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 BACKGROUND
 FOR THE PERIOD
 JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

3. Submit the Pennsylvania Department of Community and Economic Development’s (DCED) Report of Elected and Appointed Officials by January 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.

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

Section 2 of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is available from the Department of Transportation in March of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- Municipalities that transferred roads from the Commonwealth of Pennsylvania to the municipality through the Highway Transfer Program receive annual turnback allocations in March of each year from the Department of Transportation. Turnback allocations are based on the mileage of the roads transferred.
- Expenditures include the total transferred from Section 1.

Section 3 of Form MS-965 With Adjustments determines if the municipality expended Liquid Fuels Tax Fund money in excess of the permissible amount for equipment and the balance that the municipality may carry forward for the purchase of equipment to the subsequent year.

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

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

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

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

Basis of Presentation

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

Basis Of Accounting

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

General Fixed Assets

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

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2018 FORM MS-965 – SECTION 1
 WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ 15,366.16	\$ (15,366.16)	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	16,296.61	-	16,296.61
Traffic control devices	811.09	7,321.50	8,132.59
Street lighting	85,452.39	(26,762.90)	58,689.49
Storm sewers and drains	1,200.00	-	1,200.00
Repairs of tools and machinery	9,404.32	3,600.31	13,004.63
Maintenance and repair of roads and bridges	-	3,154.25	3,154.25
Highway construction and rebuilding projects	-	28,053.00	28,053.00
Miscellaneous	-	155,022.00	155,022.00
 Total (To Section 2, Line 5)	 <u>\$ 128,530.57</u>	 <u>\$ 155,022.00</u>	 <u>\$ 283,552.57</u>

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2018 FORM MS-965 – SECTION 2
 WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2018	\$ 76,817.74	\$ 87,530.39	\$ 164,348.13
Receipts:			
2. State allocation	-	-	-
2a. Turnback allocation	-	-	-
2b. Interest on investments	-	34.87	34.87
2c. Miscellaneous	87,530.39	94,932.84	182,463.23
3. Total receipts	87,530.39	94,967.71	182,498.10
4. Total funds available	164,348.13	182,498.10	346,846.23
5. Expenditures (Section 1)	128,530.57	155,022.00	283,552.57
6. Balance, December 31, 2018	<u>\$ 35,817.56</u>	<u>\$ 27,476.10</u>	<u>\$ 63,293.66</u>

BOROUGH OF DARBY
 DELAWARE COUNTY
 LIQUID FUELS TAX FUND
 2018 FORM MS-965 – SECTION 3
 WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 76,817.74	\$ 87,530.39	\$ 164,348.13
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	-	-	-
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	76,817.74	87,530.39	164,348.13
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>76,817.74</u>	<u>87,530.39</u>	<u>164,348.13</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 35,817.56</u>	<u>\$ 27,476.10</u>	<u>\$ 63,293.66</u>

BOROUGH OF DARBY
 DELAWARE 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	\$ 20,052.18	\$ (20,052.18)	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	8,471.76	-	8,471.76
Traffic control devices	6,223.55	14,384.96	20,608.51
Street lighting	78,295.53	(23,764.98)	54,530.55
Storm sewers and drains	1,500.00	-	1,500.00
Repairs of tools and machinery	5,005.19	4,579.72	9,584.91
Maintenance and repair of roads and bridges	1,599.90	(512.40)	1,087.50
Highway construction and rebuilding projects	-	25,364.88	25,364.88
Miscellaneous	-	20,024.00	20,024.00
 Total (To Section 2, Line 5)	 <u>\$ 121,148.11</u>	 <u>\$ 20,024.00</u>	 <u>\$ 141,172.11</u>

BOROUGH OF DARBY
 DELAWARE 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	\$ 123,347.95	\$ (60,054.29)	\$ 63,293.66
Receipts:			
2. State allocation	496,932.62	-	496,932.62
2a. Turnback allocation	-	-	-
2b. Interest on investments	-	2.34	2.34
2c. Miscellaneous	23,044.00	-	23,044.00
3. Total receipts	519,976.62	2.34	519,978.96
4. Total funds available	643,324.57	(60,051.95)	583,272.62
5. Expenditures (Section 1)	121,148.11	20,024.00	141,172.11
6. Balance, December 31, 2019	<u>\$ 522,176.46</u>	<u>\$ (80,075.95)</u>	<u>\$ 442,100.51</u>

BOROUGH OF DARBY
 DELAWARE 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	\$ 123,347.95	\$ (60,054.29)	\$ 63,293.66
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	99,386.53	-	99,386.53
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	222,734.48	(60,054.29)	162,680.19
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>222,734.48</u>	<u>(60,054.29)</u>	<u>162,680.19</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 222,734.48</u>	<u>\$ (60,054.29)</u>	<u>\$ 162,680.19</u>

BOROUGH OF DARBY
DELAWARE 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	\$ 9,958.08	\$ (9,958.08)	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	2,371.47	5,926.61	8,298.08
Street lighting	83,718.51	(29,618.90)	54,099.61
Storm sewers and drains	36,065.00	-	36,065.00
Repairs of tools and machinery	4,253.97	3,019.47	7,273.44
Maintenance and repair of roads and bridges	1,676.93	-	1,676.93
Highway construction and rebuilding projects	116,245.34	30,630.90	146,876.24
Miscellaneous	-	24.00	24.00
 Total (To Section 2, Line 5)	 <u>\$ 254,289.30</u>	 <u>\$ 24.00</u>	 <u>\$ 254,313.30</u>

BOROUGH OF DARBY
 DELAWARE 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	\$ 522,176.46	\$ (80,075.95)	\$ 442,100.51
Receipts:			
2. State allocation	244,941.81	-	244,941.81
2a. Turnback allocation	-	-	-
2b. Interest on investments	-	1.89	1.89
2c. Miscellaneous	9,273.73	-	9,273.73
3. Total receipts	254,215.54	1.89	254,217.43
4. Total funds available	776,392.00	(80,074.06)	696,317.94
5. Expenditures (Section 1)	254,289.30	24.00	254,313.30
6. Balance, December 31, 2020	<u>\$ 522,102.70</u>	<u>\$ (80,098.06)</u>	<u>\$ 442,004.64</u>

BOROUGH OF DARBY
 DELAWARE 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	\$ 222,734.48	\$ (60,054.29)	\$ 162,680.19
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	48,988.36	-	48,988.36
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	271,722.84	(60,054.29)	211,668.55
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>271,722.84</u>	<u>(60,054.29)</u>	<u>211,668.55</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 271,722.84</u>	<u>\$ (60,054.29)</u>	<u>\$ 211,668.55</u>

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

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

Adjustments

2018 - Section 1

An adjustment of \$(15,366.16) was made to “Minor equipment purchases” because expenditures of \$7,321.50 for traffic control devices, \$1,290.10 for street lighting, \$3,600.31 for repairs of tools and machinery, and \$3,154.25 for maintenance and repair of roads and bridges were misclassified.

An adjustment of \$7,321.50 was made to “Traffic control devices” because these expenditures were misclassified as minor equipment purchases.

An adjustment of \$(26,762.90) was made to “Street lighting” because \$1,290.10 of these expenditures were misclassified as minor equipment purchases and \$28,053.00 of highway construction and rebuilding projects were misclassified.

An adjustment of \$3,600.31 was made to “Repairs of tools and machinery” because these expenditures were misclassified as minor equipment purchases.

An adjustment of \$3,154.25 was made to “Maintenance and repair of roads and bridges” because these expenditures were misclassified as minor equipment purchases.

An adjustment of \$28,053.00 was made to “Highway construction and rebuilding projects” because these expenditures were misclassified as street lighting.

An adjustment of \$155,022.00 was made to “Miscellaneous” because a transfer of \$155,000.00 to the Sewer Fund and bank service charges of \$22.00 were not reported.

2018 - Section 2

An adjustment of \$87,530.39 was made to “Balance, January 1, 2018” because of a prior report adjustment that was not carried forward in the fund balance.

An adjustment of \$34.87 was made to “Interest on investments” because interest earnings were not reported.

An adjustment of \$94,932.84 was made to “Miscellaneous” receipts because these receipts were understated.

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Adjustments (Continued)

2018 - Section 3

An adjustment of \$87,530.39 was made to “Prior year equipment balance” because of prior report adjustments that were not carried forward in the equipment balance.

2019 - Section 1

An adjustment of \$(20,052.18) was made to “Minor equipment purchases” because expenditures of \$14,384.96 for traffic control devices, \$4,579.72 for repairs of tools and machinery, and \$1,087.50 for maintenance and repair of roads and bridges were misclassified.

An adjustment of \$14,384.96 was made to “Traffic control devices” because these expenditures were misclassified as minor equipment purchases.

An adjustment of \$(23,764.98) was made to “Street lighting” because expenditures of \$25,364.88 for highway construction and rebuilding projects were misclassified and \$1,599.90 of these expenditures were misclassified as maintenance and repair of roads and bridges.

An adjustment of \$4,579.72 was made to “Repairs of tools and machinery” because these expenditures were misclassified as minor equipment purchases.

An adjustment of \$(512.40) was made to “Maintenance and repair of roads and bridges” because \$1,087.50 of these expenditures were misclassified as minor equipment purchases and \$1,599.90 of street lighting expenditures were misclassified.

An adjustment of \$25,364.88 was made to “Highway construction and rebuilding projects” because these expenditures were misclassified as street lighting.

An adjustment of \$20,024.00 was made to “Miscellaneous” because a transfer of \$20,000.00 to the General Fund and bank service charges of \$24.00 were not reported.

2019 - Section 2

An adjustment of \$(60,054.29) was made to “Balance, January 1, 2019” because an incorrect fund balance was carried forward.

An adjustment of \$2.34 was made to “Interest on investments” because interest earnings were understated.

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Adjustments (Continued)

2019 - Section 3

An adjustment of \$(60,054.29) was made to “Prior year equipment balance” because an incorrect equipment balance was carried forward.

2020 - Section 1

An adjustment of \$(9,958.08) was made to “Minor equipment purchases” because expenditures of \$5,926.61 for traffic control devices, \$1,012.00 for street lighting, and \$3,019.47 for repairs of tools and machinery were misclassified.

An adjustment of \$5,926.61 was made to “Traffic control devices” because these expenditures were misclassified as minor equipment purchases.

An adjustment of \$(29,618.90) was made to “Street lighting” because \$1,012.00 of these expenditures were misclassified as minor equipment purchases and \$30,630.90 of highway construction and rebuilding projects expenditures were misclassified.

An adjustment of \$3,019.47 was made to “Repairs of tools and machinery” because these expenditures were misclassified as minor equipment purchases.

An adjustment of \$30,630.90 was made to “Highway construction and rebuilding projects” because these expenditures were misclassified as street lighting.

An adjustment of \$24.00 was made to “Miscellaneous” because bank service charges were not reported.

2020 - Section 2

An adjustment of \$(80,075.95) was made to “Balance, January 1, 2020” to reflect the adjustment made to the fund balance in 2019 – Section 2.

An adjustment of \$1.89 was made to “Interest on investments” because interest earnings were understated.

2020 - Section 3

An adjustment of \$(60,054.29) was made to “Prior year equipment balance” to reflect the adjustment made to the equipment balance in 2019 – Section 3.

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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>2018</u>	<u>2019</u>	<u>2020</u>
General Fund	Reimbursement (Summary of 2014-2015 Examination Recommendation)	\$ -	\$23,044.00	\$ -
General Fund	Reimbursement (Summary of 2016 Examination Recommendation)	182,463.23	-	-
General Fund	Reimbursement (Summary of 2017 Examination Recommendations)	-	-	9,273.73
Totals		<u>\$182,463.23</u>	<u>\$23,044.00</u>	<u>\$9,273.73</u>

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>2018</u>	<u>2019</u>	<u>2020</u>
Sewer Fund	Transfer (see Finding No. 1)	\$155,000.00	\$ -	\$ -
General Fund	Transfer (see Finding No. 1)	-	20,000.00	-
Financial Institution	Bank service charges	22.00	24.00	24.00
Totals		<u>\$155,022.00</u>	<u>\$20,024.00</u>	<u>\$24.00</u>

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Bank Loan

On February 15, 2017, the municipality borrowed \$208,935.80 from Uninvest Bank and Trust Co. for the implementation of LED streetlights and other outdoor lighting improvement measures within the municipality. The term of the loan was for nine years at an interest rate of 2.95 percent. Principal and interest payments of \$2,318.43 are due monthly. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$7,245.86 and \$2,027.87, respectively. Additionally, the municipality paid interest of \$3,081.78 from the General Fund.

During the current examination period, the municipality paid principal of \$66,633.68, interest of \$14,726.98, and \$1,088.23 in late fees from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2018, 2019, and 2020 Forms MS-965 - Section 1. Liquid Fuels money should not be used to repay this loan because the municipality failed to obtain project approval from the Department of Transportation for the project. (see Finding No. 2). Additionally, the municipality paid principal of \$1,890.99 and interest of \$427.44 from the General Fund. The outstanding balance of the loan as of December 31, 2020, was \$133,165.27, plus interest.

BOROUGH OF DARBY
DELAWARE COUNTY
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FINDINGS AND RECOMMENDATIONS
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Finding No. 1 - Documentation Supporting Transfers Was Not Available For Examination

Our examination disclosed that the municipality did not maintain documentation, such as invoices or payroll records, to support a transfer to the Sewer Fund of \$155,000.00 on October 12, 2018 and a transfer to the General Fund of \$20,000.00 on February 1, 2019.

Good internal control procedures ensure that there is documentation to support all expenditures.

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including expenditures made without supporting documentation, are outside the scope of permissible expenditures.

Without adequate documentation, we could not determine if the expenditures were permissible according to the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations.

We were not able to determine why this condition occurred.

The failure to maintain documentation to support transfers could result in the municipality having to reimburse \$175,000.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the municipality reimburse \$175,000.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality ensure good internal control over transfers by maintaining adequate documentation to support all expenditures.

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Finding No. 1 - Documentation Supporting Transfers Was Not Available For Examination
(Continued)

Management's Response

The borough manager stated:

I understand and agree.

Auditor's Conclusion

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

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Finding No. 2 - Failure To Obtain Project Approval - Recurring

We cited the municipality for failure to obtain project approval during our prior examination for the period January 1, 2017 to December 31, 2017. Our current examination disclosed that on February 15, 2017, the municipality borrowed \$208,935.80 from Uninvest Bank and Trust Co. for the implementation of LED streetlights and other outdoor lighting improvements within the municipality. During the current examination period, the municipality paid principal of \$66,633.68, interest of \$14,726.98, and \$1,088.23 in late fees from its Liquid Fuels Tax Fund. Before obtaining a loan to install new LED lighting, a municipality must obtain the approval of the Department of Transportation. However, the municipality did not file an application with the Department of Transportation for the project and failed to submit specifications for approval.

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 that nonpermissible expenditures include "Construction and reconstruction projects without prior PENNDOT approval."

Additionally, *Publication 9*, Chapter Two, Section 2.7.3.1, states:

In addition to repaying bond issues, Act 174, enacted August 1965, permits the use of Liquid Fuels Tax funds to repay bank loans as well as bond issues which have been incurred by municipalities for road and bridge purposes. Three requirements must be met:

1. All loans must comply with the Local Government Debt Act. . .
2. Bank loans or bond issues must be used exclusively for highway purposes.
3. All projects must have PENNDOT's prior approval.

All such projects must be reported on the MS-329, Project Approval form and/or MS-339, Application for County Aid form, showing items such as the location, type of work, and estimated cost. In addition, if the job is to be financed wholly or in part by borrowing, it must be clearly stated in the remarks portion of these forms.

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Finding No. 2 - Failure To Obtain Project Approval - Recurring (Continued)

The failure to comply with the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$82,448.88 to its Liquid Fuels Tax Fund.

This condition occurred because the municipality does not agree that it was required to obtain project approval for the LED lighting project.

Recommendations

We recommend that the municipality reimburse \$82,448.88 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that before the municipality expends money on a project, it applies for and obtains prior approval for the project, and when the project is completed, it obtains approval of the completed work.

Management's Response

The borough manager stated:

We had documentation and information regarding bidding. This was to go from sodium chloride lighting to LED and was all streetlights. This project should be allowed to be paid out of Liquid Fuels. The borough should not have to reimburse these funds.

Auditor's Conclusion

A similar finding was written in our prior report. The Department of Transportation required the municipality to reimburse its Liquid Fuels Tax Fund for the finding and will determine if it is required to reimburse its Liquid Fuels Tax Fund for this finding. During our next examination, we will determine if the municipality complied with our recommendations.

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Finding No. 3 - Liquid Fuels Money Over Expended On Project

Our examination disclosed that the municipality expended \$99,805.63 of Liquid Fuels Tax Fund money on construction project No. 19-23407-001. However, the amount of Liquid Fuels Tax Fund money approved by the Department of Transportation to be expended from the Liquid Fuels Tax Fund for this project was \$95,185.63. The difference of \$4,620.00 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.

The failure to comply with the Department of Transportation's Regulations could result in the municipality having to reimburse \$4,620.00 to its Liquid Fuels Tax Fund.

This condition occurred because the municipality failed to properly total all eligible expenditures for the road project.

Recommendations

We recommend that the municipality reimburse \$4,620.00 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 road construction projects.

Management's Response

The borough manager stated:

I understand and agree.

Auditor's Conclusion

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

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LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 4 - Nonpermissible Expenditures

Our examination disclosed that the municipality expended \$1,480.43 during 2018 from the Liquid Fuels Tax Fund for heating the administrative building, which is a nonpermissible expenditure.

The Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 2615.4, provides, in part, that monies herein allocated may be used only for construction, reconstruction, maintenance, and repairs of such public roads or streets, including bridges, culverts and drainage structures, for which they are legally responsible. Also permitted are expenditures involving acquisition, maintenance, repairs and operation of street signs, traffic signs, traffic signal control systems, road equipment, and snow fences.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including liquid gas from a utility, are outside the scope of permissible expenditures.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations as noted above could result in the municipality having to reimburse \$1,480.43 to its Liquid Fuels Tax Fund.

This occurred because the municipality failed to properly review the invoices to determine the permissible expenditures.

Recommendations

We recommend that the municipality reimburse \$1,480.43 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 Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

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Finding No. 4 - Nonpermissible Expenditures (Continued)

Management's Response

The borough manager stated:

I understand and agree.

Auditor's Conclusion

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

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 5 - Late Receipt Of Allocations

Our examination disclosed that the 2018 and 2019 Liquid Fuels Tax Fund allocations of \$251,638.13 and \$245,294.49, respectively, which should have been distributed from the Department of Transportation to the municipality during the first week of March of each year, were not received until June 3, 2019, and June 17, 2019, respectively, 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 Elected and Appointed Officials by January 31st and the Survey of Financial Condition by March 15th.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- 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.

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the 2018 allocation for more than 15 months and the 2019 allocation for more than 3 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.

The municipality received its 2020 and 2021 Liquid Fuels Tax Fund allocations on time.

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

Recommendation

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

Management's Response

The Borough manager stated:

I understand and agree.

Auditor's Conclusion

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

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LIQUID FUELS TAX FUND
SUMMARY OF PRIOR EXAMINATIONS' RECOMMENDATIONS
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Summary Of 2014-2015 Examination Recommendation

In 2014-2015 report, we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$23,044.00 to its Liquid Fuels Tax Fund. This amount consists of \$15,044.00 for liquid fuels money over expended on a project and \$8,000.00 for liquid fuels money transferred to the General Fund.

During our prior examination, we reviewed a letter dated August 22, 2017, from the Department of Transportation informing the municipality to reimburse \$23,044.00 to its Liquid Fuels Tax Fund. The municipality reimbursed this amount to its Liquid Fuels Tax Fund on May 13, 2019.

Summary Of 2016 Examination Recommendation

In our 2016 report, we recommended that the Department of Transportation review our examination findings to determine if the municipality should reimburse a total of \$383,520.23 to its Liquid Fuels Tax Fund. This amount consists of \$382,463.23 for liquid fuels money transferred to the General Fund and \$1,057.00 for nonpermissible expenditures.

During our current examination, we reviewed a letter dated May 23, 2019 from the Department of Transportation informing the municipality to reimburse \$383,520.23 to its Liquid Fuels Tax Fund. The municipality reimbursed \$182,463.23 to its Liquid Fuels Tax Fund on January 22, 2018. As of the exit conference date of this report of January 23, 2023, \$201,057.00 remained due the municipality's Liquid Fuels Tax Fund.

Summary Of 2017 Examination Recommendations

In our 2017 report, we recommended that the Department of Transportation review our examination findings to determine if the municipality should reimburse \$9,273.73 to its Liquid Fuels Tax Fund for failure to obtain project approval.

During our current examination, we reviewed a letter dated July 1, 2019, from the Department of Transportation informing the municipality to reimburse \$9,273.73 to its Liquid Fuels Tax Fund. During our current examination, we noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on March 10, 2020.

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SUMMARY OF PRIOR EXAMINATIONS' RECOMMENDATIONS
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Summary Of 2017 Examination Recommendations (Continued)

In our 2017 report, we also recommended that:

- Before the municipality expends money on a project, it applies for and obtains prior approval for the project, and when the project is completed, it obtains approval of the completed work.
- Municipal officials comply with the Department of Transportation's *Publication 9* by reassessing their fiscal policy and consider investing money in excess of current needs in investments outlined in *The Borough Code* as published by the Local Government Commission.

During our current examination, we noted that the municipality complied with our second bulleted recommendation but did not comply with our first bulleted recommendation (see Finding No. 2).

BOROUGH OF DARBY
DELAWARE COUNTY
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SUMMARY OF EXIT CONFERENCE
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An exit conference was held January 23, 2023. Those participating were:

BOROUGH OF DARBY

Mr. Mark Possenti, Borough Manager/Secretary

DEPARTMENT OF THE AUDITOR GENERAL

Mr. John C. Socket, Auditor

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

BOROUGH OF DARBY
DELAWARE COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

This report was initially distributed to:

Michael Carroll
Acting Secretary
Department of Transportation

Borough of Darby
Delaware County
1020 Ridge Avenue
Darby, PA 19023

The Honorable Darren Burrell
Mayor

The Honorable Rudolph Taylor
President of Council

Mr. Mark Possenti
Borough Manager/Secretary

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