

ATTESTATION ENGAGEMENT

Borough of Dunbar
Fayette County, Pennsylvania
26-404
Liquid Fuels Tax Fund
For the Period
January 1, 2020 to December 31, 2020

January 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
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov

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 Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Dunbar, Fayette County, for the period January 1, 2020 to December 31, 2020. The municipality's management is responsible for presenting the Form 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 Form 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 Form MS-965 is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Form 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 Form 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 described in the Auditor Description of Select Transactions section of this report, the adjustments included on the Form MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in the Finding and Recommendation section of this report, the borough expended \$13,856.60 during 2020 from the Liquid Fuels Tax Fund for materials and road repairs. The borough was required to obtain three written or telephonic price quotations for these expenditures. However, documentation for price quotations was not available for examination.

Independent Auditor's Report (Continued)

In our opinion, except for the matter discussed in the preceding paragraph, the Form MS-965 With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of Dunbar, Fayette County, for the period January 1, 2020 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 Form 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 Form 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 Form MS-965 is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Form 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 Form 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 Form MS-965 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 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.

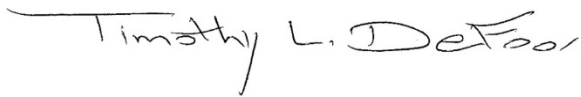
As part of obtaining reasonable assurance about whether the Form MS-965 is free from material misstatement, we performed tests of the Borough of Dunbar, Fayette County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Form 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*:

- Documentation For Price Quotations Was Not Available For Examination.

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 Dunbar, Fayette County, to us during the course of our examination. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

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
January 14, 2022

CONTENTS

	<u>Page</u>
Background.....	1
Financial Section:	
2020 Form MS-965 With Adjustments	5
Auditor Description Of Select Transactions.....	8
Finding And Recommendations:	
Finding - Documentation For Price Quotations Was Not Available For Examination	9
Summary Of Exit Conference.....	12
Report Distribution	13

BOROUGH OF DUNBAR
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2020 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 DUNBAR
 FAYETTE COUNTY
 LIQUID FUELS TAX FUND
 BACKGROUND
 FOR THE PERIOD
 JANUARY 1, 2020 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:

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 DUNBAR
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2020 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 DUNBAR
FAYETTE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2020 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 DUNBAR
 FAYETTE 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	\$ 9,026.45	\$ -	\$ 9,026.45
Computer/Computer related training	-	-	-
Major equipment purchases	11,504.59	-	11,504.59
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	3,883.63	-	3,883.63
Traffic control devices	-	-	-
Street lighting	9,825.26	-	9,825.26
Storm sewers and drains	15,341.36	-	15,341.36
Repairs of tools and machinery	4,937.96	(80.82)	4,857.14
Maintenance and repair of roads and bridges	32,135.79	-	32,135.79
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
 Total (To Section 2, Line 5)	 <u>\$ 86,655.04</u>	 <u>\$ (80.82)</u>	 <u>\$ 86,574.22</u>

BOROUGH OF DUNBAR
 FAYETTE 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	\$ 133,289.96	\$ -	\$ 133,289.96
Receipts:			
2. State allocation	46,557.47	-	46,557.47
2a. Turnback allocation	-	-	-
2b. Interest on investments	723.39	-	723.39
2c. Miscellaneous	-	-	-
3. Total receipts	<u>47,280.86</u>	<u>-</u>	<u>47,280.86</u>
4. Total funds available	<u>180,570.82</u>	<u>-</u>	<u>180,570.82</u>
5. Expenditures (Section 1)	<u>86,655.04</u>	<u>(80.82)</u>	<u>86,574.22</u>
6. Balance, December 31, 2020	<u><u>\$ 93,915.78</u></u>	<u><u>\$ 80.82</u></u>	<u><u>\$ 93,996.60</u></u>

BOROUGH OF DUNBAR
 FAYETTE 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	\$ 61,793.12	\$ -	\$ 61,793.12
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	9,311.49	-	9,311.49
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	71,104.61	-	71,104.61
5. Less: Major equipment expenditures	11,504.59	-	11,504.59
6. Remainder	<u>59,600.02</u>	<u>-</u>	<u>59,600.02</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 59,600.02</u>	<u>\$ -</u>	<u>\$ 59,600.02</u>

BOROUGH OF DUNBAR
FAYETTE COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2020 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

Section 1

An adjustment of \$80.82 was made to “Repairs of tools and machinery” because check No. 1379 was voided but was included as an expenditure.

Lease-Purchase Agreement

On November 10, 2020, the municipality entered into a lease-purchase agreement with F.N.B. Finance to purchase a 2020 Ford F450 Single Axle Dump Truck for \$51,498.00. The agreement was for a term of five years at an interest rate of 4.3 percent. Principal and interest payments of \$11,191.51 are due annually.

During the current examination period, the municipality paid principal of \$11,191.51 and document fees of \$313.08 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2020 Form MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2020 was \$40,306.49, plus interest.

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

Finding - Documentation For Price Quotations Was Not Available For Examination

Our examination disclosed that the borough expended \$13,856.60 during 2020 from the Liquid Fuels Tax Fund for materials and road repairs. The borough was required to obtain three written or telephonic price quotations for these expenditures. However, documentation for price quotations was not available for examination. The material and road repair purchases were as follows:

<u>Invoice Number</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
205052	1417	10-26-20	\$ 4,308.50
205054	1422	11-09-20	<u>9,548.10</u>
Total			<u><u>\$13,856.60</u></u>

The above expenditures were not made in compliance with the contract requirements of *The Borough Code*, 53 P.S. § 46402(a.1), (also found at § 1402(a.1) of *The Borough Code* as published by the Local Government Commission), which states, in part:

Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts [during 2012] that exceed ten thousand dollars (\$10,000.00) but are less than the amount [in excess of \$18,500.00] requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

The thresholds for obtaining price quotations increased to purchases between \$11,300.00 and \$21,000.00 for 2020, and \$11,500.00 and \$21,300.00 for 2021.

This occurred because Council spoke with the borough's solicitor and was incorrectly informed that because the cost estimated for each project was under the cost threshold, the work was not required to be put out for bid.

The failure to comply with *The Borough Code* could result in the borough having to reimburse \$13,856.60 to its Liquid Fuels Tax Fund.

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

**Finding - Documentation For Price Quotations Was Not Available For Examination
(Continued)**

Recommendations

We recommend that the borough reimburse \$13,856.60 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the borough complies with *The Borough Code* as noted in this finding.

Management's Response

The borough officials provided the following response:

Both projects were two independent projects in different, nonadjacent streets in separate areas on opposite ends of the Borough. The Borough planned each project a different time, not concurrently or simultaneously. The Borough also determined and approved to do both projects at separate times, not concurrently or simultaneously. Each project was under the quotation threshold. Likewise, the projects were, both individually and collectively, under the public advertising and bidding threshold and evasion/piecemeal prohibitions and were completed at separate times, not concurrently or simultaneously. Accordingly, no evasion or piece-meal prohibitions or quotation, advertising, and/or bidding requirements were violated. Each of these contracts constitutes a valid contract and expense of the Borough, pursuant to the Borough Code (including 8 Pa.C.S.A. §§ 1402 and 1403), and a legal use of liquid fuels funds.

The Borough requests citations to all legal authorities and documentation relating to any requirement that separate projects be consolidated and bid out together in any instance where they are performed by the same contractor where each project is planned, approved, and completed at different times and (1) each project is less than the applicable quotations requirement threshold, and, in particular, (2) the total of both projects is less than the applicable advertising and bidding threshold, as in this instance. Likewise, Section 449.7 is inapplicable, as that section relates to materials to be purchased and used by the Borough (e.g., "[e]ach municipality shall make an annual estimate of *its* requirements of road construction and maintenance materials" (emphasis added)); the language of Section 449.7 does not include materials obtained and used by one or more contractors on one or more projects. Furthermore, Section 449.7 relates to "construction and maintenance materials" only and does not relate to contractor services.

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

**Finding - Documentation For Price Quotations Was Not Available For Examination
(Continued)**

Auditor's Conclusion

We discussed this finding with the Department of Transportation. Their stance was that it should remain a finding. The Department of Transportation will determine if the municipality will be required to reimburse \$13,856.60 to its Liquid Fuels Tax Fund. During our next examination, we will determine if the municipality complied with our recommendations.

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

An exit conference was held September 20, 2021. Those participating were:

BOROUGH OF DUNBAR

Ms. Leslie J. Uhren, Secretary/Treasurer

The Honorable Robert D. Grover, President of Council

The Honorable Jason Bartholomai, Vice-President of Council

DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Michele Simpson, Auditor

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

BOROUGH OF DUNBAR
FAYETTE COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2020 TO DECEMBER 31, 2020

This report was initially distributed to:

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

Borough of Dunbar
Fayette County
47 Connellsville Street
Dunbar, PA 15431

The Honorable Robert D. Grover
President of Council

The Honorable Jason Bartholomai
Vice-President of Council

Ms. Leslie J. Uhren
Secretary/Treasurer

This report is a matter of public record and is available online at 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.