

# ATTESTATION ENGAGEMENT

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City of Hazleton  
Luzerne County, Pennsylvania  
40-301  
Liquid Fuels Tax Fund  
For the Period  
January 1, 2019 to December 31, 2020

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May 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 City of Hazleton, Luzerne 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.

We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to 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 expended \$235,014.00 from its Liquid Fuels Tax Fund for paving in excess of one inch without obtaining the approval of the Department of Transportation (see Finding No. 1).
- During 2020, the municipality loaned \$424,200.82 from its General Fund to its Liquid Fuels Tax Fund - to cover expenditures. The municipality transferred \$522,317.91 from its Liquid Fuels Tax Fund to its General Fund, which was \$98,117.09 more than the amount loaned (see Finding No. 2).
- During 2019, the municipality expended \$67,302.58 from its Liquid Fuels Tax Fund for paving a parking lot, which is a nonpermissible expenditure (see Finding No. 3).
- During 2019, the municipality expended \$24,746.00 from its Liquid Fuels Tax Fund for the purchase of street signs, posts, and hardware without advertising for bids (see Finding No. 4).
- During 2020, the municipality expended \$3,002.23 from its Liquid Fuels Tax Fund for expenditures incurred on August 10, 2018, which is a retroactive expenditure. (see Finding No. 5).

In our opinion, except for the bulleted items 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 City of Hazleton, Luzerne 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 the 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 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 Forms MS-965 are free from material misstatement, we performed tests of the City of Hazleton, Luzerne 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.
- Amount Transferred From The Liquid Fuels Tax Fund To The General Fund Exceeded Temporary Loans.
- Nonpermissible Expenditures.
- Noncompliance With Advertising And Bidding Requirements - Recurring.
- Retroactive Expenditure.

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

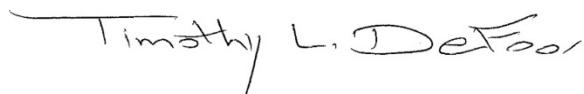
- Late Receipt of Allocation.

Independent Auditor's Report (Continued)

The examination findings for failure to obtain project approval and noncompliance with advertising and bidding requirements contained in this report cite conditions that existed in the operation of the municipality during the previous engagement period and were not corrected during the current examination period. The municipality should strive to comply with the recommendations noted 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 City of Hazleton, Luzerne 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 blue 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 name.

Timothy L. DeFoor  
Auditor General  
May 3, 2023

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

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

Each municipality must deposit the 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.

CITY OF HAZLETON  
 LUZERNE 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.



CITY OF HAZLETON  
LUZERNE 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.

CITY OF HAZLETON  
LUZERNE 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.

CITY OF HAZLETON  
 LUZERNE 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	\$ 8,351.45	\$ -	\$ 8,351.45
Computer/Computer related training	-	-	-
Major equipment purchases	608,257.61	-	608,257.61
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	197,109.62	-	197,109.62
Traffic control devices	76,992.32	-	76,992.32
Street lighting	130,091.15	-	130,091.15
Storm sewers and drains	2,000.00	-	2,000.00
Repairs of tools and machinery	91,064.89	-	91,064.89
Maintenance and repair of roads and bridges	569,904.82	(235,014.00)	334,890.82
Highway construction and rebuilding projects	-	235,014.00	235,014.00
Miscellaneous	152,469.15	-	152,469.15
 Total (To Section 2, Line 5)	 <u>\$ 1,836,241.01</u>	 <u>\$ -</u>	 <u>\$ 1,836,241.01</u>

CITY OF HAZLETON  
 LUZERNE 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	\$ 323,678.11	\$ -	\$ 323,678.11
Receipts:			
2. State allocation	825,741.90	-	825,741.90
2a. Turnback allocation	-	-	-
2b. Interest on investments	4,509.06	-	4,509.06
2c. Miscellaneous	732,487.71	-	732,487.71
3. Total receipts	<u>1,562,738.67</u>	<u>-</u>	<u>1,562,738.67</u>
4. Total funds available	<u>1,886,416.78</u>	<u>-</u>	<u>1,886,416.78</u>
5. Expenditures (Section 1)	<u>1,836,241.01</u>	<u>-</u>	<u>1,836,241.01</u>
6. Balance, December 31, 2019	<u><u>\$ 50,175.77</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 50,175.77</u></u>

CITY OF HAZLETON  
 LUZERNE 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	\$ 323,678.11	\$ -	\$ 323,678.11
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	165,148.38	-	165,148.38
3. PENNDOT approved adjustments	<u>492,050.66</u>	<u>-</u>	<u>492,050.66</u>
4. Total funds available for equipment acquisition	980,877.15	-	980,877.15
5. Less: Major equipment expenditures	<u>608,257.61</u>	<u>-</u>	<u>608,257.61</u>
6. Remainder	<u><u>372,619.54</u></u>	<u><u>-</u></u>	<u><u>372,619.54</u></u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u><u>\$ 50,175.77</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 50,175.77</u></u>

CITY OF HAZLETON  
 LUZERNE 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	113,207.91	-	113,207.91
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	189,777.26	-	189,777.26
Traffic control devices	127,923.29	-	127,923.29
Street lighting	144,575.87	-	144,575.87
Storm sewers and drains	29,199.42	-	29,199.42
Repairs of tools and machinery	51,211.52	5,899.01	57,110.53
Maintenance and repair of roads and bridges	65,482.85	-	65,482.85
Highway construction and rebuilding projects	65,352.49	-	65,352.49
Miscellaneous	528,300.92	(5,899.01)	522,401.91
 Total (To Section 2, Line 5)	 <u>\$ 1,315,031.53</u>	 <u>\$ -</u>	 <u>\$ 1,315,031.53</u>

CITY OF HAZLETON  
 LUZERNE 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	\$ 50,175.77	\$ -	\$ 50,175.77
Receipts:			
2. State allocation	803,653.60	-	803,653.60
2a. Turnback allocation	-	-	-
2b. Interest on investments	379.05	-	379.05
2c. Miscellaneous	728,021.92	-	728,021.92
3. Total receipts	<u>1,532,054.57</u>	<u>-</u>	<u>1,532,054.57</u>
4. Total funds available	<u>1,582,230.34</u>	<u>-</u>	<u>1,582,230.34</u>
5. Expenditures (Section 1)	<u>1,315,031.53</u>	<u>-</u>	<u>1,315,031.53</u>
6. Balance, December 31, 2020	<u><u>\$ 267,198.81</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 267,198.81</u></u>

CITY OF HAZLETON  
 LUZERNE 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	\$ 50,175.77	\$ -	\$ 50,175.77
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	160,730.72	-	160,730.72
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	210,906.49	-	210,906.49
5. Less: Major equipment expenditures	113,207.91	-	113,207.91
6. Remainder	<u>97,698.58</u>	<u>-</u>	<u>97,698.58</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 97,698.58</u>	<u>\$ -</u>	<u>\$ 97,698.58</u>



CITY OF HAZLETON  
LUZERNE 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:

Adjustments

2019 - Section 1

Adjustments were made to “Maintenance and repair of roads and bridges” and “Highway construction and rebuilding projects” because expenditures of \$235,014.00 were misclassified.

2020 - Section 1

Adjustments were made to “Repairs of tools and machinery” and “Miscellaneous” because expenditures of \$5,899.01 were misclassified.

CITY OF HAZLETON  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
 FOR THE PERIOD  
 JANUARY 1, 2019 TO DECEMBER 31, 2020

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>2019</u>	<u>2020</u>
Financial Institution	Equipment loan	\$492,050.66	\$ -
Housing development	Reimbursement for street lights	782.06	1,743.50
Conyngham Borough	Sale of emulsion	3,836.25	-
East Union Township	Sale of emulsion	852.50	5,687.50
Hazle Township	Reimbursement for traffic light	236.52	237.29
Black Creek Township	Sale of emulsion	4,262.50	-
Commonwealth of Pennsylvania	Street sweeping agreement	1,985.56	-
General Fund	Reimbursement (Summary of Prior Examination Recommendations)	75,103.90	-
West Hazleton Borough	Reimbursement for traffic light	1,397.14	681.35
Vendor	Electricity for signals	171.77	-
Vendor	Deposit in error	101,831.00	-
General Fund	Correction of transfer in error	49,977.85	-
General Fund	Loan to cover expenditures (Finding No. 2)	-	424,200.82
Vendor	Reimbursement for materials	-	553.95
Vendor	Reimbursement for overpayment	-	10,619.04
CBDG Funds	Green light go grant	-	51,730.47
Resident	Reimbursement for damages	-	109.00
Utility Company	Paving agreement reimbursement	-	232,459.00
Totals		<u>\$732,487.71</u>	<u>\$728,021.92</u>

CITY OF HAZLETON  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
 FOR THE PERIOD  
 JANUARY 1, 2019 TO DECEMBER 31, 2020

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 service charges	\$ 660.30	\$ 84.00
General Fund	Transfer in error	49,977.85	-
General Fund	Reimburse deposit in error	101,831.00	-
General Fund	Reimbursement of General Fund loans (Finding No. 2)	-	522,317.91
Totals		<u>\$152,469.15</u>	<u>\$522,401.91</u>

Deposit In Error

On October 2, 2019, the municipality deposited \$101,831.00 into its Liquid Fuels Tax Fund in error. On October 28, 2019, the municipality transferred this amount from its Liquid Fuels Tax Fund to its General Fund to correct the deposit in error.

Transfer In Error

On August 19, 2019, the municipality transferred \$49,977.85 from its Liquid Fuels Tax Fund to its General Fund in error. On September 12, 2019, the municipality transferred this amount from its General Fund to its Liquid Fuels Tax Fund to correct the transfer in error.

Overpayment Of Invoice

On March 11, 2020, the municipality expended \$73,207.78 from the Liquid Fuels Tax Fund to pay various vendor invoices for the purchase of bulk ice control. However, the amount of the invoices was only \$62,588.74. On May 22, 2020, the municipality deposited \$10,619.04 into its Liquid Fuels Tax Fund that was received from the vendor to correct the overpayment of the invoices.

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

Lease-Purchase Agreement

On August 22, 2019, the municipality entered into a lease-purchase agreement with US Bank Corp to purchase (2) Freightliner trucks, each with dump body and plow, (1) street sweeper, (2) 2019 Ford F-550 dump truck, with plow and spreader, (1) 2019 Case 4x4 Super N Backhoe for \$688,664.00. The agreement was for a term of seven years at an interest rate of 3.638 percent. Principal and interest payments of \$113,207.91 are due annually.

During the current examination period, the municipality paid principal of \$179,515.79 and interest of \$46,900.03 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2019 and 2020 Forms MS-965 - Section 1. The outstanding balance of the lease-purchase agreement as of December 31, 2020, was \$509,148.21, plus interest.

Bank Loan

On June 12, 2020, the municipality borrowed \$663,697.00 from U.S. Bank Corp. to do LED lighting upgrades. The term of the loan was for ten years at an interest rate of 4.074 percent. Principal and interest payments of \$73,365.00 are due annually.

During the current examination period, the municipality paid principal of \$46,326.03 and interest of \$27,038.97 from the Liquid Fuels Tax Fund. These amounts are reflected in street lighting on the 2020 Form MS-965 - Section 1. The outstanding balance of the loan as of December 31, 2020, was \$617,370.97, plus interest.

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 1 - Failure To Obtain Project Approval - Recurring**

We cited the municipality for failing to obtain project approvals in our prior report for the period January 1, 2018 to December 31, 2018. Our current examination disclosed that the municipality expended \$235,014.00 for paving in excess of one inch on various streets without obtaining the approval of the Department of Transportation. Before paving of one inch in thickness or greater is done the 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 also 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 2.8, states, in part:

The following criteria is used to determine when a project is required for work on local roads utilizing Liquid Fuels Tax Funds, when construction, reconstruction and/or resurfacing work exceeds one inch or more in depth as well as other activities.

Bituminous Surface:                      One inch thickness or greater

The failure to comply with the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$235,014.00 to its Liquid Fuels Tax Fund.

We were unable to determine the cause of this condition.

**Recommendations**

We recommend that the municipality reimburse \$235,014.00 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.

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 1 - Failure To Obtain Project Approval - Recurring (Continued)**

Management's Response

The municipal officials stated:

We're inclined to not provide any response other than to agree with the findings as presented and that we're putting in place the practices and policies to prevent further related findings.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the municipality comply with our recommendations. During our next examination, we will determine if the municipality complied with our recommendations.

CITY OF HAZLETON  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 FINDINGS AND RECOMMENDATIONS  
 FOR THE PERIOD  
 JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 2 - Amount Transferred From The Liquid Fuels Tax Fund To The General Fund Exceeded Temporary Loans**

Our examination disclosed that the municipality loaned \$424,200.82 from its General Fund to its Liquid Fuels Tax Fund during 2020 to cover expenditures. The municipality transferred \$522,317.91 from its Liquid Fuels Tax Fund to its General Fund, which was \$98,117.09 more than the amount loaned. The loans and repayments were as follows:

<u>Date Loaned To Liquid Fuels Fund</u>	<u>Amount</u>	<u>Date Reimbursed To General Fund</u>	<u>Amount</u>
01/22/2020	\$ 50,000.00		
01/30/2020	121,482.09		
03/11/2020	105,988.73	06/18/2020	\$350,835.82
06/04/2020	73,365.00	10/20/2020	121,482.09
06/10/2020	<u>73,365.00</u>	10/20/2020	<u>50,000.00</u>
Totals	<u>\$424,200.82</u>		<u>\$522,317.91</u>

The practice of transferring liquid fuels money in excess of the amount loaned for incurred permissible liquid fuels expenditures into any account other than the Liquid Fuels Tax Fund account is contrary to the Liquid Fuels Tax Municipal Allocation Law, 72 P.S. § 26515.5, which states:

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

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

The failure to follow the Liquid Fuels Tax Municipal Allocation Law as noted above could result in the municipality having to reimburse \$98,117.09 to its Liquid Fuels Tax Fund.

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 2 - Amount Transferred From The Liquid Fuels Tax Fund To The General Fund Exceeded Temporary Loans (Continued)**

We were unable to determine the cause of this condition.

Recommendations

We recommend that the municipality reimburse \$98,117.09 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We recommend that the municipal officials review all transfers between funds closely to ensure that transfer amounts are correct and transfer money from the Liquid Fuels Tax Fund to other funds only for expenditures incurred.

Management's Response

The municipal officials stated:

We're inclined to not provide any response other than to agree with the findings as presented and that we're putting in place the practices and policies to prevent further related findings.

Auditor's Conclusion

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



CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 3 - Nonpermissible Expenditure**

Our examination disclosed that the municipality expended \$67,302.58 during 2019 from the Liquid Fuels Tax Fund for paving a parking lot, 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 paving parking lots, 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 \$67,302.58 to its Liquid Fuels Tax Fund.

We were unable to determine the cause of this condition.

**Recommendations**

We recommend that the municipality reimburse \$67,302.58 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.

**Management's Response**

The municipal officials stated:

We're inclined to not provide any response other than to agree with the findings as presented and that we're putting in place the practices and policies to prevent further related findings.

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 3 - Nonpermissible Expenditure (Continued)**

Auditor's Conclusion

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

CITY OF HAZLETON  
 LUZERNE COUNTY  
 LIQUID FUELS TAX FUND  
 FINDINGS AND RECOMMENDATIONS  
 FOR THE PERIOD  
 JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 4 - Noncompliance With Advertising And Bidding Requirements - Recurring**

We cited the municipality for noncompliance with advertising and bidding requirements in our prior report for the period January 1, 2018 to December 31, 2018. Our current examination disclosed that the city expended \$24,746.00 during 2019 from the Liquid Fuels Tax Fund for the purchase of street signs, posts, and hardware without advertising for bids.

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
0845	01/03/2019	3331	02/13/2019	\$ 4,060.00
0982	03/21/2019	3400	04/01/2019	6,070.00
1010	04/19/2019	3373	05/16/2019	1,137.50
1210	07/03/2019	3400	07/24/2019	3,052.50
1291	08/16/2019	3417	08/28/2019	4,605.00
1304	08/26/2019	3421	09/05/2019	2,511.00
1382	09/18/2019	3427	10/21/2019	3,310.00
2019 Total				<u><u>\$24,746.00</u></u>

The above expenditures were not made in compliance with the advertising, bidding, and contract requirements of *The Third Class City Code*, 53 P.S. § 36901(b), (also found at § 1901 of *The Third Class City Code* as published by the Local Government Commission), which requires that purchases over \$18,500.00 during 2012 must be advertised, bid, and awarded by contract. The bidding threshold increased to purchases over \$20,600.00 for 2019, \$21,000.00 for 2020, \$21,300.00 for 2021, \$21,900.00 for 2022, and \$22,500.00 for 2023. *The Third Class City Code*, 53 P.S. § 36902, and § 1902 of *The Third Class City Code* as published by the Local Government Commission further states that advertising, bidding, and contract requirements should not be evaded through piecemeal purchases.

The failure to follow *The Third Class City Code* could result in the city having to reimburse \$24,746.00 to its Liquid Fuels Tax Fund.

We were unable to determine the cause of this condition.

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 4 - Noncompliance With Advertising And Bidding Requirements - Recurring  
(Continued)**

Recommendations

We recommend that the city reimburse \$24,746.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We again recommend that, in the future, the city complies with *The Third Class City Code* as noted in this finding.

Management's Response

The municipal officials stated:

We're inclined to not provide any response other than to agree with the findings as presented and that we're putting in place the practices and policies to prevent further related findings.

Auditor's Conclusion

The municipal officials should ensure that the municipality complies with *The Third Class City Code* and the Department of Transportation's *Publication 9* as stated above. This is a recurring finding. We strongly recommend that the municipality comply with our recommendation. During our next examination, we will determine if the municipality complied with our recommendations.

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 5 - Retroactive Expenditures**

Our examination disclosed that during 2020, the municipality paid \$3,002.23 from its Liquid Fuels Tax Fund for engineering fees incurred in 2018, which are retroactive expenditures.

The Department of Transportation's *Publication 9* contains the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter Two, Section 2.7.2, states, in relevant part:

Examples of what Liquid Fuels Tax Fund monies may not be expended for are:

16. Retroactive expenditures or repayment of other funds for prior period expenditures.

Because these expenditures were incurred on August 10, 2018, and were not paid until October 30, 2020, the expenditures incurred were not paid in a reasonable period. Therefore, the municipality did not comply with the Department of Transportation's *Publication 9*.

The failure to follow the Department of Transportation's *Publication 9* as noted above could result in the municipality having to reimburse \$3,002.23 to its Liquid Fuels Tax Fund.

We were unable to determine the cause of this condition.

**Recommendations**

We recommend that the municipality reimburse \$3,002.23 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 Department of Transportation's *Publication 9* as noted above.

**Management's Response**

The municipal officials stated:

We're inclined to not provide any response other than to agree with the findings as presented and that we're putting in place the practices and policies to prevent further related findings.

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 5 - Retroactive Expenditures (Continued)**

Auditor's Conclusion

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

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 6 - Late Receipt Of Allocation**

Our examination disclosed that the 2020 Liquid Fuels Tax Fund allocation of \$803,653.60, which should have been distributed from the Department of Transportation to the municipality during the first week of March of that year, was not received until June 16, 2020, 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 31<sup>st</sup> and the Survey of Financial Condition by March 15<sup>th</sup>.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- 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 2020 allocation for more than three months. Furthermore, had the allocation been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.

**Recommendation**

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

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

**Finding No. 6 - Late Receipt Of Allocation (Continued)**

Management's Response

The municipal officials stated:

We're inclined to not provide any response other than to agree with the findings as presented and that we're putting in place the practices and policies to prevent further related findings.

Auditor's Conclusion

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



CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

Summary Of Prior Examination Recommendations

In our prior report, we recommended that the Department of Transportation review our examination findings to determine if the city should reimburse \$75,103.90 to its Liquid Fuels Tax Fund for failure to obtain project approval and noncompliance with advertising and bidding requirements.

During our current examination, we reviewed a letter dated July 19, 2019, from the Department of Transportation directing the city to reimburse \$75,103.90 to its Liquid Fuels Tax Fund. We noted that the city reimbursed \$75,103.90 to its Liquid Fuels Tax Fund on August 2, 2019.

In our prior report, we also recommended that the city:

- Applies for and obtains prior approval for the project before expending money on the project, and when the project is completed, it obtains approval of the completed work.
- Complies with *The Third Class City Code* by advertising for bids for all purchases over \$20,100.00. The threshold for advertising for bids increased to purchases over \$20,600.00 for 2019, \$21,000.00 for 2020, \$21,300.00 for 2021, \$21,900 for 2022, and \$22,500.00 for 2023.

During our current examination, we noted that the municipality did not comply with our recommendations (see Finding Nos. 1 and 4).

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

An exit conference was held February 8, 2023. Those participating were:

CITY OF HAZLETON

Mr. Dan Lynch, City Administrator

Mr. Gregg Pavlick, Engineer

Ms. Lisa Shema, Accounts Payable

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Brian P. Dries, Auditor

Mr. Martin Lawler, Audit Manager

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

CITY OF HAZLETON  
LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2019 TO DECEMBER 31, 2020

This report was initially distributed to:

**Michael Carroll**  
Acting Secretary  
Department of Transportation

**City of Hazleton**  
Luzerne County  
40 North Church Street  
Hazleton, PA 18201

**The Honorable Jeffrey Cusat**  
Mayor

**The Honorable James Perry**  
President of Council

**Mr. Dan Lynch**  
City Administrator

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).