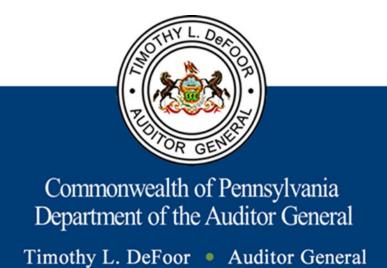
# ATTESTATION ENGAGEMENT

## Borough of Point Marion Fayette County, Pennsylvania 26-413 Liquid Fuels Tax Fund For the Period January 1, 2018 to December 31, 2019

June 2021





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

Yassmin Gramian, P.E. 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 Point Marion, Fayette County, for the period January 1, 2018 to December 31, 2019. 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 mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each municipality's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

#### Independent Auditor's Report (Continued)

As discussed in Finding No. 1, the municipality did not maintain invoices to support expenditures of \$28,325.69 during 2018 from the Liquid Fuels Tax Fund. Additionally, as discussed in Finding No. 2, the municipality expended \$1,472.55 during 2019 from the Liquid Fuels Tax Fund for cinders that were not certified by the Department of Transportation, which are nonpermissible.

In our opinion, except for the matters discussed in the preceding paragraph, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of Point Marion, Fayette County, for the period January 1, 2018 to December 31, 2019, 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.

Our consideration of internal control was for the limited purpose of expressing an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and 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. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

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 a 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. We consider the deficiency below to be a material weakness:

• Documentation Supporting Expenditures Was Not Available For Examination.

#### Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Forms MS-965 is free from material misstatement, we performed tests of the Borough of Point Marion, 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*:

• Nonpermissible Expenditure.

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 Point Marion, 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.

Timothy L. Detoor

May 14, 2021

Timothy L. DeFoor Auditor General

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#### Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, (72 P.S. § 2615.5 et sec.), 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.

#### 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:

2015/2016	2017	2018	2019
\$10,500.00	\$10,700.00	\$10,900.00	\$11,100.00

• 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:

2015/2016	2017	2018	2019
\$10,500.00	\$10,700.00	\$10,900.00	\$11,100.00

• Agility projects are exchanges of services with the Department of Transportation.

#### 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.

#### 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 POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND 2018 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Adjustments		Adjusted Amount	
Minor equipment purchases	\$	-	\$	-	\$	-
Computer/Computer related training		-		-		-
Major equipment purchases		-		-		-
Agility projects		-		-		-
Cleaning streets and gutters		-		-		-
Winter maintenance services		4,485.46		-		4,485.46
Traffic control devices		-		-		-
Street lighting		22,045.49		-		22,045.49
Storm sewers and drains		-		-		-
Repairs of tools and machinery		474.67		-		474.67
Maintenance and repair of						
roads and bridges		1,320.07		-		1,320.07
Highway construction and						
rebuilding projects		-		-		-
Miscellaneous		128.00		-		128.00
Total (To Section 2, Line 5)	\$	28,453.69	\$	_	\$	28,453.69

#### BOROUGH OF POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND 2018 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Reported		Reported Adjustments		stments	Adjusted Amount		
1. Balance, January 1, 2018	\$	43,104.63	\$	-	\$	43,104.63				
Receipts: 2. State allocation 2a. Turnback allocation 2b. Interest on investments 2c. Miscellaneous		44,603.27 - 178.74 -		- - -		44,603.27 - 178.74 -				
3. Total receipts		44,782.01				44,782.01				
4. Total funds available		87,886.64				87,886.64				
5. Expenditures (Section 1)		28,453.69				28,453.69				
6. Balance, December 31, 2018	\$	59,432.95	\$	_	\$	59,432.95				

#### BOROUGH OF POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND 2018 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported	Adjı	istments		Adjusted Amount
1. Prior year equipment balance	\$ 35,719.30	\$	-	\$	35,719.30
<ol> <li>Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)</li> </ol>	8,920.65		-		8,920.65
3. PENNDOT approved adjustments	 		-		
4. Total funds available for equipment acquisition	44,639.95		-		44,639.95
5. Less: Major equipment expenditures	 			<u> </u>	
6. Remainder	 44,639.95				44,639.95
<ol> <li>Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)</li> </ol>	\$ 44,639.95	\$		\$	44,639.95

#### BOROUGH OF POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	Reported		Reported Adjustments		Adjusted Amount	
Minor equipment purchases	\$	-	\$ -	\$	-	
Computer/Computer related training		-	-		-	
Major equipment purchases		-	-		-	
Agility projects		-	-		-	
Cleaning streets and gutters		-	-		-	
Winter maintenance services		5,393.35			5,393.35	
Traffic control devices		2,827.37	-		2,827.37	
Street lighting		23,501.76	-		23,501.76	
Storm sewers and drains		-	-		-	
Repairs of tools and machinery		1,266.70	-		1,266.70	
Maintenance and repair of						
roads and bridges		4,877.83	-		4,877.83	
Highway construction and						
rebuilding projects		-	-		-	
Miscellaneous		56.00			56.00	
Total (To Section 2, Line 5)	\$	37,923.01	\$ 	\$	37,923.01	

#### BOROUGH OF POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported		Reported Adjustments		Adjusted Amount		
1. Balance, January 1, 2019	\$	59,432.95	\$ -	\$	59,432.95		
Receipts: 2. State allocation 2a. Turnback allocation 2b. Interest on investments 2c. Miscellaneous		45,360.18 - 226.38 -	 - - -		45,360.18 - 226.38 -		
3. Total receipts		45,586.56	 		45,586.56		
4. Total funds available		105,019.51	 		105,019.51		
5. Expenditures (Section 1)		37,923.01	 		37,923.01		
6. Balance, December 31, 2019	\$	67,096.50	\$ _	\$	67,096.50		

#### BOROUGH OF POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance		Reported	Adju	istments		Adjusted Amount
1. Prior year equipment balance	\$	44,639.95	\$	-	\$	44,639.95
<ol> <li>Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)</li> </ol>		9,072.04		-		9,072.04
3. PENNDOT approved adjustments						
4. Total funds available for equipment acquisition		53,711.99		-		53,711.99
5. Less: Major equipment expenditures						-
6. Remainder		53,711.99				53,711.99
<ol> <li>Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)</li> </ol>	\$	53,711.99	\$	_	\$	53,711.99
	Ψ	55,711.77	Ψ		Ψ	55,711.77

#### BOROUGH OF POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND AUDITOR DESCRIPTION OF SELECT TRANSACTIONS FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2019

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

#### Miscellaneous Expenditures

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

Payee	Description	2018	2019
Financial institution Vendor	Bank service charges Nonpermissible	\$128.00	\$ 56.00
	expenditure (Finding No. 2)		1,472.55
Totals		\$128.00	\$1,528.55

#### <u>Finding No. 1 - Documentation Supporting Expenditures Was Not Available For</u> <u>Examination</u>

Our examination disclosed that the municipality did not maintain invoices to support expenditures of \$28,325.69 during 2018.

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.

This condition occurred because the current Secretary/Treasurer started during 2019 after the 2018 Form MS-965 was filed. The Liquid Fuels invoices were misplaced before she started.

The failure to maintain documentation to support expenditures could result in the municipality having to reimburse \$28,325.69 to its Liquid Fuels Tax Fund.

We did not note any expenditures made without documentation during 2019.

#### <u>Finding No. 1 - Documentation Supporting Expenditures Was Not Available For</u> <u>Examination (Continued)</u>

#### Recommendations

We recommend that the municipality reimburse \$28,325.69 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

#### Management's Response

The municipal secretary/treasurer stated:

I came on board in January of 2019 and the MS-965 had already been filed. Somehow the file with all the 2018 documentation was misplaced and to date has not been found. Council members at the time were asked about it and had no idea where it was. The offices were searched to no avail.

#### Auditor's Conclusion

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

#### Finding No. 2 - Nonpermissible Expenditure

Our examination disclosed that the municipality expended \$1,472.55 during 2019 from the Liquid Fuels Tax Fund for cinders not certified by the Department of Transportation, 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 cinders not certified by the Department of Transportation, are outside the scope of permissible expenditures.

The municipality did not know that cinders not certified by the Department of Transportation are a non-permissible expenditure.

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 \$1,472.55 to its Liquid Fuels Tax Fund.

#### Recommendations

We recommend that the municipality reimburse \$1,472.55 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.

#### Finding No. 2 - Nonpermissible Expenditure (Continued)

#### Management's Response

The municipal secretary/treasurer stated:

Council was not aware, as was I, that cinders were not an allowable expense for winter maintenance.

#### Auditor's Conclusion

Cinders are an allowable expense for winter maintenance, as long as the cinders are certified by the Department of Transportation. During our next examination, we will determine if the municipality complied with our recommendations.

#### BOROUGH OF POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND SUMMARY OF PRIOR EXAMINATION RECOMMENDATION FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2019

#### Summary Of Prior Examination Recommendation

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

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

#### BOROUGH OF POINT MARION FAYETTE COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2018 TO DECEMBER 31, 2019

An exit conference was held February 2, 2021. Those participating were:

#### BOROUGH OF POINT MARION

Ms. Kathy Griffith, Secretary/Treasurer

#### DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Michele Simpson, Auditor

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

This report was initially distributed to:

#### Yassmin Gramian, P.E. Secretary Department of Transportation

#### **Borough of Point Marion**

Fayette County 426 Morgantown Street P. O. Box 236 Point Marion, PA 15474

## The Honorable T.J. Fowler

President of Council

### The Honorable Joseph Corcoran

Vice-President of Council

#### Ms. Kathy Griffith

Secretary/Treasurer

This report is a matter of public record and is available online at <u>www.PaAuditor.gov</u>. 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: <u>news@PaAuditor.gov</u>.