ATTESTATION ENGAGEMENT

Borough of Prospect Park

Delaware County, Pennsylvania 23-419

Liquid Fuels Tax Fund
For the Period
January 1, 2019 to December 31, 2019

June 2021



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
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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 Form MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Prospect Park, Delaware County, for the period January 1, 2019 to December 31, 2019. 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.

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*.

<u>Independent Auditor's Report (Continued)</u>

As discussed in the Findings and Recommendations section of this report:

- The municipality expended \$7,445.00 and \$25,798.32 of Liquid Fuels Tax Fund money on construction project Nos. 19-23419-001 and 19-23419-002, respectively, in excess of the amount approved by the Department of Transportation (see Finding No. 1)
- The municipality expended \$3,950.00 during 2019 from the Liquid Fuels Tax Fund for down spout repair at a borough owned park, which is a nonpermissible expenditure (see Finding No. 2).

In our opinion, except for the bulleted matters discussed above, 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 Prospect Park, Delaware County, for the period January 1, 2019 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 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.

Independent Auditor's Report (Continued)

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 Prospect Park, Delaware County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the 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 instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Liquid Fuels Money Over Expended On Projects.
- 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 Prospect Park, Delaware County, to us during the course of our examination. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

May 17, 2021

Timothy L. DeFoor Auditor General

Timothy L. Detoor

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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 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	¢10,000,00	¢11 100 00	¢11 200 00
\$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.

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 PROSPECT PARK DELAWARE COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 1 WITH ADJUSTMENTS

Expenditure Summary	 Reported	Adjı	ustments	 Adjusted Amount
Minor equipment purchases	\$ -	\$	-	\$ -
Computer/Computer related training	_		-	-
Major equipment purchases	-		-	-
Agility projects	_		-	-
Cleaning streets and gutters	-		-	-
Winter maintenance services	6,377.47		-	6,377.47
Traffic control devices	49,788.69		-	49,788.69
Street lighting	-		-	-
Storm sewers and drains	3,950.00		-	3,950.00
Repairs of tools and machinery	1,763.20		-	1,763.20
Maintenance and repair of				
roads and bridges	-		-	-
Highway construction and				
rebuilding projects	255,606.68		-	255,606.68
Miscellaneous	 25,798.32			25,798.32
Total (To Section 2, Line 5)	\$ 343,284.36	\$		\$ 343,284.36

BOROUGH OF PROSPECT PARK DELAWARE COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 2 WITH ADJUSTMENTS

Fund Balance	Reported	Adjustments	Adjusted Amount
1. Balance, January 1, 2019	\$ 227,865.18	\$ -	\$ 227,865.18
Receipts: 2. State allocation	169,986.41	-	169,986.41
2a. Turnback allocation2b. Interest on investments	- 290.92	-	- 290.92
2c. Miscellaneous	49,142.91		49,142.91
3. Total receipts	219,420.24		219,420.24
4. Total funds available	447,285.42		447,285.42
5. Expenditures (Section 1)	343,284.36		343,284.36
6. Balance, December 31, 2019	\$ 104,001.06	\$ -	\$ 104,001.06

BOROUGH OF PROSPECT PARK DELAWARE COUNTY LIQUID FUELS TAX FUND 2019 FORM MS-965 – SECTION 3 WITH ADJUSTMENTS

Equipment Balance	Reported	Adjustments	Adjusted Amount
1. Prior year equipment balance	\$ 158,641.47	\$ -	\$ 158,641.47
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	33,997.28	-	33,997.28
3. PENNDOT approved adjustments	-		-
4. Total funds available for equipment acquisition	192,638.75	-	192,638.75
5. Less: Major equipment expenditures	-		
6. Remainder	192,638.75		192,638.75
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	\$ 104,001.06	\$ -	\$ 104,001.06

BOROUGH OF PROSPECT PARK DELAWARE COUNTY LIQUID FUELS TAX FUND AUDITOR DESCRIPTION OF SELECT TRANSACTIONS FOR THE PERIOD JANUARY 1, 2019 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 Receipts

The following miscellaneous receipts were deposited into the Liquid Fuels Tax Fund during the examination period:

Source	Description	Amount
General Fund	Reimbursement (Summary of 2017 Examination Recommendation)	\$ 6,184.30
General Fund	Reimbursement for traffic signal maintenance	45.00
Insurance Company	Reimbursement for damages	42,913.61
Total		\$49,142.91

Miscellaneous Expenditure

On August 16, 2019, the municipality transferred \$25,798.32 from the Liquid Fuels Tax Fund to the General Fund for the reimbursement of cost related to Project No. 19-23419-002 (see Finding No. 1).

Finding No. 1 - Liquid Fuels Money Over Expended On Projects

Our examination disclosed that the municipality expended \$110,997.00 of Liquid Fuels Tax Fund money on construction project No. 19-23419-001. However, the amount of Liquid Fuels Tax Fund money approved by the Department of Transportation to be expended from the Liquid Fuels Tax Fund for this project was \$103,552.00. The difference of \$7,445.00 should have been paid directly from the General Fund.

Additionally, the municipality expended \$144,609.68 directly from its Liquid Fuels Tax Fund to a contractor for the construction project 19-23419-002, which was the amount approved by the Department of Transportation to be paid from the Liquid Fuels Tax Fund. However, on August 16, 2019, the municipality transferred an additional \$25,798.32 from its Liquid Fuels Tax Fund to its General Fund for the reimbursement of costs related to the project.

The Department of Transportation's *Publication 9*, Chapter 2, Section 2.8, requires the municipality to file a Project Approval Form MS-329 with the Department of Transportation before a paving project of a depth of one inch or greater is done. This form contains an estimate of the amount of Liquid Fuels Tax Fund money as well as money from other funds that is approved for the project.

Upon the completion of a paving project, Section 2.8 requires a Department of Transportation Municipal Services Representative to review and approved a Final Completion Report Form MS-999 that is prepared by the municipality that contains the actual quantities and total costs of the project. The municipality may not pay more than the amount approved to be paid from the Liquid Fuels Tax Fund on Form MS-999.

The failure to comply with the Department of Transportation's Regulations could result in the municipality having to reimburse \$33,243.32 to its Liquid Fuels Tax Fund.

The municipality could not provide a cause for the over expenditure on project No. 19-23419-001. However, project No. 19-23419-001 was originally approved for \$170,000.00 to be expended from the Liquid Fuels Tax Fund. Therefore, the municipal officials incorrectly thought the extra money should be reimbursed to its General Fund.

Finding No. 1 - Liquid Fuels Money Over Expended On Projects (Continued)

Recommendations

We recommend that the municipality reimburse \$33,243.32 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the municipality ensures that it expends no more than the approved amount of Liquid Fuels Tax Fund money on road construction projects as reported on Final Completion Report Form MS-999.

Management's Response

The Secretary/Treasurer stated:

I do not know the reasoning for this over expenditure of project No. 19-23419-001. The Borough agrees with this finding for the project.

The project approval was \$170,000.00 from Liquid Fuels and \$24,000.00 from General Fund for project No. 19-23419-002. We only paid \$144,201.68 from Liquid Fuels out of the \$170,000.00 estimated approval. We paid \$50,108.60 from General Fund. Therefore, I thought it was appropriate to reimburse the General Fund the difference of the approved Liquid Fuels approved funding of \$170,000.00 minus the amount spent from Liquid Fuels in the amount of \$144,201.68 and reimburse the over expended amount of \$25,798.32, since I paid \$50,108.60 from General Fund.

Auditor's Conclusion

The municipality actually paid \$144,609.68 of Liquid Fuels Tax Fund money directly to vendors for Project No. 19-23419-002, which included engineering fees of \$408.00. Although, \$170,000.00 of Liquid Fuels Tax Fund money was originally approved to be expended on Project Approval Form MS-329, the amount approved to be paid from the Liquid Fuels Tax Fund on the Final Completion Report Form MS-999 for the project was \$144,609.68. The municipality is not permitted to spend Liquid Fuels Tax Fund money in excess of the amount approved on the Final Completion Report Form MS-999. 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 \$3,950.00 during 2019 from the Liquid Fuels Tax Fund for down spout repairs at a borough owned park, 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 down spout repairs at a borough owned park, 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 \$3,950.00 to its Liquid Fuels Tax Fund.

The municipality erroneously believed the invoice was for a permissible expense.

Recommendations

We recommend that the municipality reimburse \$3,950.00 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 Secretary/Treasurer stated:

The invoice received from [the vendor] indicated that it was for storm sewer work, which is an allowable expense from Liquid Fuels. However, after reviewing your audit, we agree that \$3,950.00 should be reimbursed to Liquid Fuels.

Auditor's Conclusion

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

BOROUGH OF PROSPECT PARK DELAWARE COUNTY LIQUID FUELS TAX FUND SUMMARY OF 2017 EXAMINATION RECOMMENDATION FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

Summary Of 2017 Examination Recommendation

In our 2017 report, we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$6,184.30 to its Liquid Fuels Tax Fund for over expending Liquid Fuels money on construction project No. 17-23419-001.

We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on May 13, 2019.

BOROUGH OF PROSPECT PARK DELAWARE COUNTY LIQUID FUELS TAX FUND SUMMARY OF EXIT CONFERENCE FOR THE PERIOD JANUARY 1, 2019 TO DECEMBER 31, 2019

An exit conference was held March 4, 2021. Those participating were:

BOROUGH OF PROSPECT PARK

Ms. Deborah A. Hurst, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Stephen P. Stoppie, Audit Supervisor

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

This report was initially distributed to:

Yassmin Gramian, P.E.

Acting Secretary
Department of Transportation

Borough of Prospect Park

Delaware County 720 Maryland Avenue Prospect Park, PA 19076

The Honorable Patrick P. O'Connell

President of Council

Ms. Deborah A. Hurst

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.