

ATTESTATION ENGAGEMENT

City of York
York County, Pennsylvania
66-301
Liquid Fuels Tax Fund
For the Period
January 1, 2021 to December 31, 2022

May 2024



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

The Honorable Michael Carroll
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 York, York County, for the period January 1, 2021 to December 31, 2022. 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. An examination involves performing procedures 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 ethical requirements relating to the engagement.

As described in the Auditor Description Of Select Transactions section of this report, the adjustments included on the Forms MS-965 With Adjustments are made by the Department of the Auditor General.

Independent Auditor's Report (Continued)

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

- The city expended \$147,690.11 during 2021 from the Liquid Fuels Tax Fund for paving over one inch without obtaining approval from the Department of Transportation (see Finding No. 1).
- The city expended \$32,678.49 during 2021 in excess of the approved amount for road project No. 21-66301-001 (see Finding No. 3).
- The city expended \$13,626.41 during 2021 from the Liquid Fuels Tax Fund for a fuel dispensation system, which is a nonpermissible expenditure (see Finding No. 4).

In our opinion, except for the bulleted matters discussed above, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the City of York, York County, for the period January 1, 2021 to December 31, 2022, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

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

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.

Independent Auditor's Report (Continued)

Our consideration of internal control over reporting on the Forms MS-965 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 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 City of York, York 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*:

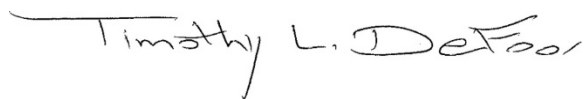
- Failure To Obtain Project Approval.
- Liquid Fuels Money Transferred To The General Fund.
- Liquid Fuels Money Over Expended On Project.
- Nonpermissible Expenditure.

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 - Recurring.

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 York, York 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. DeFoor
Auditor General
March 7, 2024

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CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, see also 72 P.S. § 2615.5, et sec., provides municipalities other than counties (i.e., townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based upon: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage in the state; and (2) 50 percent on the proportion of a municipality's population to the total population in the state.

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

Each municipality must deposit the allocation of Liquid Fuels Tax funds and annual maintenance payments that it receives into a special fund called either the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for road and bridge purposes. In such a case, the municipality may borrow money or transfer money from its General Fund to its Liquid Fuels Tax Fund.

The Department of Transportation has been given the regulatory authority for the administration of these funds. Department of Transportation's *Publication 9* includes the policies and procedures for the administration of Act 655, as amended, and the Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

To qualify for the annual allocation of Liquid Fuels Tax funds, *Publication 9* indicates that each municipality shall:

1. Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
2. Make deposits and payments or expenditures in compliance with Act 655 of 1956, as amended. Failure to do so may result in not receiving allocations from PennDOT until all discrepancies are resolved. *Publication 9*, Section 2.6, includes information about investing Liquid Fuels Tax monies, using loan or bond proceeds, and types of receipts into the Liquid Fuels Tax Fund.

CITY OF YORK
 YORK COUNTY
 LIQUID FUELS TAX FUND
 BACKGROUND
 FOR THE PERIOD
 JANUARY 1, 2021 TO DECEMBER 31, 2022

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:

2019	2020	2021	2022
\$11,100.00	\$11,300.00	\$11,500.00	\$11,800.00

- 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:

2019	2020	2021	2022
\$11,100.00	\$11,300.00	\$11,500.00	\$11,800.00

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

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

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 YORK
YORK COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

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 Forms 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 YORK
YORK COUNTY
LIQUID FUELS TAX FUND
2021 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	65,920.68	-	65,920.68
Agility projects	-	-	-
Cleaning streets and gutters	158,727.79	-	158,727.79
Winter maintenance services	118,167.67	392.30	118,559.97
Traffic control devices	159,805.62	-	159,805.62
Street lighting	646,221.99	-	646,221.99
Storm sewers and drains	12,705.40	-	12,705.40
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	265,409.76	(147,690.11)	117,719.65
Highway construction and rebuilding projects	502,457.02	147,690.11	650,147.13
Miscellaneous	-	25,342.00	25,342.00
 Total (To Section 2, Line 5)	 <u>\$ 1,929,415.93</u>	 <u>\$ 25,734.30</u>	 <u>\$ 1,955,150.23</u>

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
2021 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, 2021	\$ 2,558,389.74	\$ -	\$ 2,558,389.74
Receipts:			
2. State allocation	1,075,087.05	-	1,075,087.05
2a. Turnback allocation	20,280.00	-	20,280.00
2b. Interest on investments	1,303.14	-	1,303.14
2c. Miscellaneous	20,705.21	170.00	20,875.21
3. Total receipts	<u>1,117,375.40</u>	<u>170.00</u>	<u>1,117,545.40</u>
4. Total funds available	<u>3,675,765.14</u>	<u>170.00</u>	<u>3,675,935.14</u>
5. Expenditures (Section 1)	<u>1,929,415.93</u>	<u>25,734.30</u>	<u>1,955,150.23</u>
6. Balance, December 31, 2021	<u><u>\$ 1,746,349.21</u></u>	<u><u>\$ (25,564.30)</u></u>	<u><u>\$ 1,720,784.91</u></u>

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
2021 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	\$ 968,700.77	\$ -	\$ 968,700.77
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	219,073.41	-	219,073.41
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	1,187,774.18	-	1,187,774.18
5. Less: Major equipment expenditures	65,920.68	-	65,920.68
6. Remainder	<u>1,121,853.50</u>	<u>-</u>	<u>1,121,853.50</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 1,121,853.50</u>	<u>\$ -</u>	<u>\$ 1,121,853.50</u>

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
2022 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	110,605.55	-	110,605.55
Agility projects	-	-	-
Cleaning streets and gutters	146,544.26	-	146,544.26
Winter maintenance services	104,912.49	4,463.40	109,375.89
Traffic control devices	167,342.87	-	167,342.87
Street lighting	579,782.03	(203.39)	579,578.64
Storm sewers and drains	48,714.82	(528.95)	48,185.87
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	390,805.45	(278,103.61)	112,701.84
Highway construction and rebuilding projects	-	275,736.47	275,736.47
Miscellaneous	-	53,300.11	53,300.11
 Total (To Section 2, Line 5)	 <u>\$ 1,548,707.47</u>	 <u>\$ 54,664.03</u>	 <u>\$ 1,603,371.50</u>

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
2022 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, 2022	\$ 1,746,349.21	\$ (25,564.30)	\$ 1,720,784.91
Receipts:			
2. State allocation	1,081,676.30	-	1,081,676.30
2a. Turnback allocation	20,280.00	-	20,280.00
2b. Interest on investments	14,349.05	-	14,349.05
2c. Miscellaneous	21,119.43	53,477.03	74,596.46
3. Total receipts	<u>1,137,424.78</u>	<u>53,477.03</u>	<u>1,190,901.81</u>
4. Total funds available	<u>2,883,773.99</u>	<u>27,912.73</u>	<u>2,911,686.72</u>
5. Expenditures (Section 1)	<u>1,548,707.47</u>	<u>54,664.03</u>	<u>1,603,371.50</u>
6. Balance, December 31, 2022	<u><u>\$ 1,335,066.52</u></u>	<u><u>\$ (26,751.30)</u></u>	<u><u>\$ 1,308,315.22</u></u>

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
2022 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	\$ 1,121,853.50	\$ -	\$ 1,121,853.50
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	220,391.26	-	220,391.26
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	1,342,244.76	-	1,342,244.76
5. Less: Major equipment expenditures	<u>110,605.55</u>	<u>-</u>	<u>110,605.55</u>
6. Remainder	<u>1,231,639.21</u>	<u>-</u>	<u>1,231,639.21</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 1,231,639.21</u>	<u>\$ -</u>	<u>\$ 1,231,639.21</u>

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

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

Adjustments

2021 - Section 1

An adjustment of \$392.30 was made to “Winter maintenance services” because these expenditures were understated.

Adjustments were made to “Maintenance and repair of roads and bridges” and “Highway construction and rebuilding projects” because expenditures of \$147,690.11 were misclassified.

An adjustment of \$25,342.00 was made to “Miscellaneous” because a correction of a deposit in error was not reported.

2021 - Section 2

An adjustment of \$170.00 was made to “Miscellaneous” because these receipts were understated.

2022 - Section 1

An adjustment of \$4,463.40 was made to “Winter maintenance services” because these expenditures were understated.

An adjustment of \$(203.39) was made to “Street lighting” because these expenditures were overstated.

An adjustment of \$(528.95) was made to “Storm sewers and drains” because these expenditures were overstated.

An adjustment of \$(278,103.61) was made to “Maintenance and repair of roads and bridges” because expenditures of \$275,736.47 for highway construction and rebuilding projects were misclassified and expenditures of \$2,367.14 were overstated.

An adjustment of \$275,736.47 was made to “Highway construction and rebuilding projects” because these expenditures were misclassified as maintenance and repair of roads and bridges.

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Adjustments (Continued)

2022 - Section 1 (Continued)

An adjustment of \$53,300.11 was made to “Miscellaneous” because a transfer to the General Fund was not reported.

2022 - Section 2

An adjustment of \$(25,564.30) was made to “Balance, January 1, 2022” to reflect the adjustment made to the fund balance in 2021 - Section 2.

An adjustment of \$53,477.03 was made to “Miscellaneous” because a reimbursement of \$53,300.11 from the General Fund was not reported and receipts of \$176.92 were understated.

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>2021</u>	<u>2022</u>
General Fund	Reimbursement for materials	\$ 170.00	\$ 176.92
Commonwealth of Pennsylvania	Winter maintenance agreement	20,705.21	21,119.43
General Fund	Reimbursement (Finding No. 2)	-	53,300.11
	Totals	<u>\$20,875.21</u>	<u>\$74,596.46</u>

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Miscellaneous Expenditures

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

Payee	Description	2021	2022
General Fund	Correction of deposit in error	\$25,342.00	\$ -
General Fund	Transfer (Finding No. 2)	-	53,300.11
Totals		<u>\$25,342.00</u>	<u>\$53,300.11</u>

Lease-Purchase Agreement

On January 24, 2018, the municipality entered into a lease-purchase agreement with Fulton Bank to purchase a 2017 Ford F-550 for \$116,707.00. The agreement was for a term of five years at an interest rate of 3.00 percent. Principal and interest payments of \$24,757.58 are due annually. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$69,333.21 and \$4,939.53, respectively.

During the current examination period, the municipality paid principal of \$47,373.79 and interest of \$2,141.33 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2021 and 2022 Forms MS-965 - Section 1. On February 15, 2022, the lease-purchase agreement was paid-in-full.

Lease-Purchase Agreement

On July 11, 2017, the municipality entered into a lease-purchase agreement to purchase a 2017 Pelican street sweeper for \$226,091.00. The municipality received a trade in allowance of \$32,000.00 for 2003 and 2008 Elgin street sweepers. The municipality borrowed the remaining \$194,091.00 from Fulton Bank. The agreement was for a term of four years at an interest rate of 6.00 percent. Principal and interest payments of \$41,163.23 are due annually. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$154,140.98 and \$10,511.94, respectively.

During the current examination period, the municipality paid principal of \$39,950.02 and interest of \$1,213.10 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2021 Form MS-965 - Section 1. On June 21, 2021, the lease-purchase agreement was paid-in-full.

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Lease-Purchase Agreement

On September 1, 2022, the municipality entered into a lease-purchase agreement with PNC Equipment Finance, LLC. to purchase a 2021 Cross Country trailer for \$9,024.14, 2021 Leeboy asphalt paver for \$210,626.75, and a 2021 Bomag asphalt roller for \$40,410.00, for a total of \$260,060.89 to be financed. The agreement was for a term of five years. Principal and interest payments of \$55,216.34 are due annually. The total amount to be repaid, principal and interest, is \$276,081.70.

During the current examination period, the municipality paid principal and interest of \$55,216.34 from the Liquid Fuels Tax Fund. This amount is reflected in major equipment purchases on the 2022 Form MS-965 - Section 1. The outstanding balance of the lease-purchase agreement, including principal and interest, as of December 31, 2022, was \$220,865.36.

Lease-Purchase Agreement

On October 5, 2021, the municipality entered into a lease-purchase agreement to purchase a 2021 JCB 427 wheel loader for \$154,600.00. The municipality received a trade in allowance of \$11,0000.00 for a CAT wheel loader. The municipality borrowed the remaining \$143,600.00 from JCB Finance. The agreement was for a term of five years. Principal and interest payments of \$2,600.31 are due monthly. The total amount to be repaid, principal and interest, is \$156,018.60.

During the current examination period, the municipality paid principal and interest of \$28,083.35 and fees of \$2,548.30 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on 2022 Form MS-965 - Section 1. The outstanding balance of the lease-purchase agreement, including principal and interest, as of December 31, 2022, was \$127,935.25.

Deposit In Error

On December 23, 2020, \$25,342.00 of state funds were electronically deposited into the municipality's Liquid Fuels Tax Fund in error. On January 26, 2021, the municipality transferred this amount from its Liquid Fuels Tax Fund to its General Fund to correct the deposit in error.

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

Finding No. 1 - Failure To Obtain Project Approval

Our examination disclosed that the municipality expended \$147,690.11 for paving in excess of one inch 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
Other:	Reconstruction, such as removal and replacement of one inch or more of existing road metal, including base and surface. This would include cold-mill recycling and reclamation work.

The failure to comply with the Department of Transportation's *Publication 9* could result in the municipality having to reimburse \$147,690.11 to its Liquid Fuels Tax Fund.

We were unable to determine the cause of this condition.

Recommendations

We recommend that the municipality reimburse \$147,690.11 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further 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 YORK
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LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
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Finding No. 1 - Failure To Obtain Project Approval (Continued)

Management's Response

The Chief Accountant and Business Administrator stated:

Clarification of the types of projects that need prior approval from PennDOT was reviewed by city staff and in the future, we will obtain prior approval.

Auditor's Conclusion

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

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Finding No. 2 - Liquid Fuels Money Transferred To The General Fund

Our examination disclosed that on April 22, 2022, the municipality transferred \$53,300.11 of Liquid Fuels Tax Fund money into the General Fund, which is in noncompliance with the Liquid Fuels Tax Municipal Allocation Law.

The practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account is contrary to the Act of June 1, 1956, P.L. (1955) 1944, 72 P.S. § 2615.5, known as the Liquid Fuels Tax Municipal Allocation Law, 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 . . .

The risk that Liquid Fuels Tax Fund money may be used for unauthorized purposes increases when liquid fuels money is commingled with other funds.

On September 14, 2022, the municipality reimbursed \$53,300.11 to the Liquid Fuels Tax Fund.

The municipality stated the condition occurred due to an outdated accounting system that has since been updated to avoid this type of error.

Recommendation

We recommend that the municipality discontinues the practice of transferring Liquid Fuels Tax Fund money to other funds unless it is for the reimbursement of permissible Liquid Fuels Tax Fund expenditures.

Management's Response

The Chief Accountant and Business Administrator stated:

We have changed to a new software program and have implemented steps to guarantee that funds are deposited in the correct fund in a timely manner.

Auditor's Conclusion

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

CITY OF YORK
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LIQUID FUELS TAX FUND
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Finding No. 3 - Liquid Fuels Money Over Expended On Project

Our examination disclosed that the municipality expended \$778,193.49 of Liquid Fuels Tax Fund money on construction project No. 21-66301-001. 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 \$745,515.00. The difference of \$32,678.49 should have been paid directly from the General Fund.

The Department of Transportation's Regulations do not permit a municipality to expend Liquid Fuels Tax Fund money in excess of the amount approved on Municipal Services Completion Report Form MS-999.

The failure to comply with the Department of Transportation's Regulations could result in the municipality having to reimburse \$32,678.49 to its Liquid Fuels Tax Fund.

The municipality stated the condition occurred because the city closed out the project before paying all invoices.

Recommendations

We recommend that the municipality reimburse \$32,678.49 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality expend only the approved amount of Liquid Fuels Tax Fund money on road construction projects.

Management's Response

The Chief Accountant and Business Administrator stated:

A close out report was sent to PennDOT prior to receiving the final invoices for the project, and when the final invoices were received and paid, the project had been closed by PennDOT. In the future, we will seek to make sure that all invoices have been received and paid prior to submitting a closeout report for a project.

Auditor's Conclusion

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

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Finding No. 4 - Nonpermissible Expenditure

Our examination disclosed that the municipality expended \$13,626.41 during 2021 from the Liquid Fuels Tax Fund for a FMU 2500 Plus fuel dispensation system, 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 fuel dispensation systems, 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 \$13,626.41 to its Liquid Fuels Tax Fund.

The municipality stated the condition occurred because they did not contact their PennDOT municipal representative to determine if this was a permissible expenditure.

Recommendations

We recommend that the municipality reimburse \$13,626.41 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the municipality comply with the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations regarding permissible expenditures.

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Finding No. 4 - Nonpermissible Expenditure (Continued)

Management's Response

The Chief Accountant and Business Administrator stated:

In the future, when we plan on using Liquid Fuels funds for the purchase of a commodity or service and a question exist as to if it is an acceptable use or not, we will seek out the expertise of the PennDOT Municipal Services to clarify use.

Auditor's Conclusion

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

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Finding No. 5 - Late Receipt Of Allocation - Recurring

We cited the city for late receipt of allocation in our prior four reports, with the most recent being for the period January 1, 2017 to December 31, 2020. Our current examination disclosed that the 2022 Liquid Fuels Tax Fund allocation of \$1,081,676.30, 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 May 18, 2022, because the municipality failed to comply with the Department of Transportation's *Publication 9*, Chapter Two, Section 2.4, which states:

To qualify for the annual liquid fuels tax allocation, a municipality shall:

- Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
- Make deposits and payments or expenditures in compliance with the Act 655. Failure to do so may result in not receiving allocations from PENNDOT until all discrepancies are resolved.
- Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition by March 15th.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation's Financial Consultants.

This condition occurred because the municipality did not file its Survey of Financial Condition with the Department of Community and Economic Development until April 5, 2022.

Because the municipality failed to file its Survey of Financial Condition timely as noted above, the municipality did not have use of the 2022 allocation for more than two 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.

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Finding No. 5 - Late Receipt Of Allocation - Recurring (Continued)

Recommendation

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

Management's Response

The Chief Accountant and Business Administrator stated:

We realize late receipt of allocation and will try in the future to have the Liquid Fuels reports completed in a timely manner.

Auditor's Conclusion

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 recommendation.

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LIQUID FUELS TAX FUND
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
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Summary Of Prior Examination Recommendations

In our prior report, we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$59,549.78 to its Liquid Fuels Tax Fund. This amount consists of \$42,997.29 for noncompliance with advertising and bidding requirements and \$16,552.49 for an amount transferred from the Liquid Fuels Tax Fund to the General Fund that exceeded eligible expenditures.

During our current examination, we reviewed a letter dated April 28, 2022, from the Department of Transportation directing the municipality to reimburse \$59,549.78 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on February 6, 2023, which was subsequent to our examination period.

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

- Comply with *The Third Class City Code* by advertising for bids for all purchases over \$19,700.00 for 2017, and \$20,600.00 for 2019. The threshold for advertising for bids increased to purchases over \$21,300.00 for 2021, \$21,900.00 for 2022, \$22,500.00 for 2023, and \$23,200.00 for 2024.
- Continue to deposit all liquid fuels tax money promptly into the Liquid Fuels Tax Fund.
- Establish and implement internal controls to ensure transfers are reviewed timely to prevent and detect excess transfers.
- 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 first and second bulleted recommendations. Additionally, we did not note any transfers in excess of eligible expenditures during the current examination period. We further noted that the municipality did not comply with our fourth bulleted recommendation (see Finding No. 5).

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LIQUID FUELS TAX FUND
SUMMARY OF ONSITE CLOSEOUT MEETING
FOR THE PERIOD
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An onsite closeout meeting was held January 12, 2024. Those participating were:

CITY OF YORK

Mr. Gerard Lavelle, Chief Accountant

Ms. Kim Robertson, Business Administrator

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Ryan W. Shrauder, Audit Supervisor

CITY OF YORK
YORK COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2021 TO DECEMBER 31, 2022

This report was initially distributed to:

The Honorable Michael Carroll
Secretary
Department of Transportation

City of York
York County
101 South George Street
P.O. Box 509
York, PA 17405

The Honorable Edquina Washington
President of City Council

Mr. Gerard Lavelle
Chief Accountant

Ms. Kim Robertson
Business Administrator

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.