WESTMORELAND COUNTY
64-000

LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
EXAMINATION REPORT

FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2012

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL

COUNCIL 90
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EUGENE A. DEPASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Barry J. Schoch, P.E.
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Form MS-991 With Adjustments for the Liquid Fuels Tax Fund and the Report of Act 44 Tax Fund With Adjustments of Westmoreland County for the period January 1, 2012 to December 31, 2012. The county's management is responsible for the Form MS-991 and the Report of Act 44 Tax Fund. Our responsibility is to express an opinion on the Form MS-991 With Adjustments and the Report of Act 44 Tax Fund 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 includes examining, on a test basis, evidence supporting Westmoreland County's Form MS-991 and Report of Act 44 Tax Fund for the period January 1, 2012 to December 31, 2012 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each county'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*.

In our opinion, the Form MS-991 With Adjustments and the Report of Act 44 Tax Fund With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund and Act 44 Tax Fund of Westmoreland County for the period January 1, 2012 to December 31, 2012, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Form MS-991 and the Report of Act 44 Tax Fund and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Form MS-991 and the Report of Act 44 Tax Fund 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 Form MS-991 and the Report of Act 44 Tax Fund or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects Westmoreland County's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of Westmoreland County's Form MS-991 and the Report of Act 44 Tax Fund that is more than inconsequential will not be prevented or detected by Westmoreland County's internal control.

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Form MS-991 and the Report of Act 44 Tax Fund will not be prevented or detected by Westmoreland County's internal control.

Our consideration of internal control over reporting on the Form MS-991 and the Report of Act 44 Tax Fund was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Form MS-991 and the Report of Act 44 Tax Fund.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the Pennsylvania Department of Transportation and the management of Westmoreland County and is not intended to be and should not be used by anyone other than these specified parties.

September 23, 2013

EUGENE A. DEPASQUALE
Auditor General

CONTENTS

Page

Background 1

Financial Section:

2012 Form MS-991 With Adjustments 2

2012 Report Of Act 44 Tax Fund With Adjustments 3

Notes To Form MS-991 And Report Of Act 44 Tax Fund With Adjustments 4

Summary Of Exit Conference 9

Report Distribution 10

WESTMORELAND COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2012

Background

The Vehicle Code makes provisions and provides funding for County Liquid Fuels and Act 44 Programs. The Pennsylvania Department of Transportation has regulatory administration and oversight of the funds supporting these county programs. Counties are required to comply with those provisions and to report annually.

The Vehicle Code imposes a state tax on liquid fuels and fuels used or sold and delivered by distributors within the Commonwealth (75 Pa. C.S. § 9004(a)). One-half cent of the tax collected on each gallon of liquid fuels is deposited in the Commonwealth's Liquid Fuels Tax Fund. The Vehicle Code further provides for the disposition and use of this tax, including the allocations to counties in June and December of each year to fund construction, reconstruction, maintenance and repair of county roads, streets and bridges. The allocation to the respective counties is made in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years (75 Pa C.S. § 9010).

The Vehicle Code, as recently amended by Act 44 of 2007 (July 18, 2007, P.L.169), requires the Pennsylvania Turnpike Commission to make annual contributions for the benefit of the Pennsylvania Department of Transportation's Motor License Fund, and further requires the Department of Transportation to distribute $5,000,000 of the annual contribution to counties (75 Pa. C.S. § 8915.6). The annual distribution to counties is determined based upon the ratio of square footage of deck area of a county's county-owned bridges to the total square footage of deck area of county-owned bridges throughout the Commonwealth. The reporting of the square footage of deck area of a county's county-owned bridges is required as part of the National Bridge Inspection Standards Program.

WESTMORELAND COUNTY
LIQUID FUELS TAX FUND
2012 FORM MS-991 WITH ADJUSTMENTS

	Reported	Adjustments	Adjusted Amount
Balance, January 1, 2012	$ 431,835.00	$ -	$ 431,835.00
Receipts:			
State allocations	938,016.13	-	938,016.13
Interest (Note 3)	158.13	-	158.13
Reimbursable agreements (Note 4)	297,431.68	-	297,431.68
Miscellaneous (Note 5)	8,833.87	-	8,833.87
Accounts receivable	379,551.77	-	379,551.77
Total receipts	1,623,991.58	-	1,623,991.58
Total funds available	2,055,826.58	-	2,055,826.58
Expenditures:			
Construction	1,360,399.84	-	1,360,399.84
Maintenance and repair	212,237.93	-	212,237.93
Administrative	642.00	-	642.00
Grants to political subdivisions	-	-	-
Accounts payable	158,449.29	-	158,449.29
Miscellaneous	-	-	-
Total expenditures	1,731,729.06	-	1,731,729.06
Balance, December 31, 2012	324,097.52	-	324,097.52
Unpaid encumbrances	-	-	-
Unencumbered balance, December 31, 2012	$ 324,097.52	$ -	$ 324,097.52

Notes To Form MS-991 And Report Of Act 44 Tax Fund With Adjustments are an integral part of this report.

WESTMORELAND COUNTY
LIQUID FUELS TAX FUND
2012 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	Reported	Adjustments	Adjusted Amount
Balance, January 1, 2012	$ 121,277.63	$ -	$ 121,277.63
Receipts:			
Act 44 Funds	40,247.46	-	40,247.46
Interest (Note 3)	23.58	-	23.58
Reimburseable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Accounts receivable	-	-	-
Total receipts	40,271.04	-	40,271.04
Total funds available	161,548.67	-	161,548.67
Expenditures:			
Construction	121,299.00	-	121,299.00
Maintenance and repair	-	-	-
Accounts payable	-	-	-
Miscellaneous	-	-	-
Total expenditures	121,299.00	-	121,299.00
Balance, December 31, 2012	$ 40,249.67	$ -	$ 40,249.67

Notes To Form MS-991 And Report Of Act 44 Tax Fund With Adjustments are an integral part of this report.

WESTMORELAND COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORM MS-991 AND
REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2012

1. Criteria

A. *The Vehicle Code* prescribes criteria for liquid fuels program funds (75 Pa C.S. § 9010). The Pennsylvania Department of Transportation's *Publication 9* provides more specific policies and procedures to counties for the administration and reporting of the liquid fuels program funds. In the event of any discrepancies between the two, the legislation governs.

(1) Funds received by the counties must be deposited in a special fund designated as the County Liquid Fuels Tax Fund and no other money may be deposited and commingled. Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

(2) Payments from the special fund may be used for:

- construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide for access by individuals with disabilities consistent with Federal and State law;

- property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges;

- construction, reconstruction, operation and maintenance of publicly owned ferryboat operations;

- interest and principal payments on road, bridge, or publicly owned ferryboat operation bonds or sinking fund charges;

- acquisition, maintenance, repair and operation of traffic signs and signals;

- erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices;

- indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects, not to exceed 10 percent of the yearly allocation to the county; and

1. Criteria (continued)

- individual vehicle liability insurance for equipment purchased under the fund, not to exceed 10 percent of the yearly allocation to the county.

(3) Counties may not make expenditures from the special fund for new construction on roads, bridges, curb ramps, or publicly owned ferryboat operations without the approval of the plans for construction by the Pennsylvania Department of Transportation. And, counties may not allocate money from the special fund to political subdivisions within the county until the application and the contracts or plans for the proposed expenditures have been made on a form prescribed by the Pennsylvania Department of Transportation.

(4) Counties may encumber current funds for future road and bridge construction, reconstruction, and maintenance projects including viable municipal projects. Counties must redistribute any unencumbered balance in the special fund to political subdivisions if the unencumbered balance is more than the county's receipts during the preceding twelve month period.

(5) Counties must submit a report to the Pennsylvania Department of Transportation by January 15 for the period ending December 31 on prescribed Form MS-991, The Report of County Liquid Fuels Tax Fund, showing the receipts and expenditures of the money received by the county from the Commonwealth. Upon failure to file the report or instances of any non-compliant payments, allocations, or expenditures, the Pennsylvania Department of Transportation will withhold further funding until the delinquent report is filed, the money is allocated, or the expenditures for the prior 12 months are approved.

B. *The Vehicle Code*, as recently amended by Act 44 of 2007 (July 18, 2007, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 44 funds distributed to the counties from the Pennsylvania Turnpike Commission's annual contribution of $5,000,000 to the Commonwealth's Motor License Fund. The County's Act 44 Tax Fund is used to account for the distribution made to the county from the Department of Transportation and the payments made for construction and maintenance of county-owned bridges.

1. Criteria (continued)

Basis Of Presentation

In accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation, the Report of County Liquid Fuels Tax Fund With Adjustments and the Report of Act 44 Tax Fund With Adjustments do not constitute complete financial presentations of the county's assets, liabilities, expenses, and fund balance but include the receipts, expenditures, and fund balances of the County Liquid Fuels Tax Fund and the County Act 44 Tax Fund, respectively.

The Pennsylvania Department of Transportation prescribes that the county report the following on the MS-991 form, *Report of County Liquid Fuels Tax Fund*:

A. The balance in the County Liquid Fuels Tax Fund at the beginning of the report calendar year.

B. Receipts which must be itemized and include interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.

   Refer to the related Notes: Note 3, Interest Earnings; Note 4, Reimbursable Agreements; and Note 5, Miscellaneous Receipts.

C. Accounts receivable (to be realized within 60 days of the year end).

D. Total Liquid Fuels Tax funds available for expenditure and encumbrances.

E. Expenditures for county-owned roads, highways, and bridges.

F. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).

G. The balance in the fund at the close of the report calendar year.

H. Encumbered and unencumbered balances on hand at the close of the report calendar year.

2. Deposits

The County Code, Title 16 P.S § 17067, authorizes the county to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.

- Certificates of deposit from institutions having their principal place of business in or outside the Commonwealth of Pennsylvania that are insured by the FDIC or other like insurance. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loan's or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in financial institutions. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

There were no deposits exposed to custodial credit risk as of December 31, 2012. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the county's name.

Fund Balance

The fund balance for the Liquid Fuels Tax Fund as of December 31, 2012 consists of the following:

Cash	$324,097.52

The fund balance for the Act 44 Tax Fund as of December 31, 2012 consists of the following:

Cash	$40,249.67

3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in interest-bearing accounts which earned $158.13 during 2012, thus providing additional funds for road maintenance and repairs.

Additionally, the county deposited idle Act 44 tax money in an interest-bearing account which earned $23.58 during 2012, thus providing additional funds for bridge maintenance and repairs.

4. Reimbursable Agreements

During our examination, we noted that the county entered into reimbursable agreements with the Department of Transportation for bridge and road construction projects. During our current examination period, the county received $297,431.68 as a result of these agreements and deposited the money into its Liquid Fuels Tax Fund. As of December 31, 2012, $81,042.09 is due the Liquid Fuels Tax Fund.

5. Miscellaneous Receipts

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

Source	Description	Amount
Commonwealth of Pennsylvania	Bridge lighting reimbursement	$1,280.20
Vendor	Utility permits	245.00
Vendor	Refund for materials	1,284.34
Insurance company	Reimbursement for damages	4,060.93
Westmoreland County	Reimbursement for equipment	805.00
Local business	Sale of scrap metal	1,158.40
Total		$8,833.87

WESTMORELAND COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2012

An exit conference was held September 23, 2013. Those participating were:

WESTMORELAND COUNTY

Mr. Raymond T. Levay, General Ledger Supervisor

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Brian Delaney, Auditor

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

WESTMORELAND COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2012

This report was initially distributed to:

The Honorable Barry J. Schoch, P.E.
Secretary
Department of Transportation

Westmoreland County
Courthouse Square, Suite 101
2 North Main Street
Greensburg, PA 15601

The Honorable Charles W. Anderson	County Commissioner
The Honorable Jeffrey Balzer	Controller
The Honorable Jared M. Squires	Treasurer
Ms. Vera Spina	Chief Clerk

This report is a matter of public record and is available online at http://www.auditorgen.state.pa.us. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.