

ATTESTATION ENGAGEMENT

Philadelphia County

Pennsylvania

67-000

Liquid Fuels Tax Fund

And Act 44 Tax Fund

For the Period

January 1, 2008 to December 31, 2012

March 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Leslie Richards
Acting Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Forms MS-991 With Adjustments for the Liquid Fuels Tax Fund and attempted to examine the Reports of Act 44 Tax Fund With Adjustments of Philadelphia County for the period January 1, 2008 to December 31, 2012. The county's management is responsible for the Forms MS-991 and the Reports of Act 44 Tax Fund. Our responsibility is to express an opinion on the Forms MS-991 With Adjustments based on our examination.

Basis for and Disclaimer of Opinion - Reports of Act 44 Tax Fund

As discussed in Finding No. 3, the county deposited its 2008-2012 Act 44 Tax Fund allocations into its Liquid Fuels Tax Fund. Because the county commingled Act 44 Tax Fund money with Liquid Fuels Tax Fund money, failed to file Reports of Act 44 Tax Fund for those years, and did not account for Act 44 Tax Fund money separately from Liquid Fuels Tax Fund money, we were unable to determine accurate balances, receipts, and expenditures for the Act 44 Tax Fund for the period January 1, 2008 to December 31, 2012.

Because the matters discussed in the preceding paragraph were deemed significant, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the accompanying Reports of Act 44 Tax Fund With Adjustments of Philadelphia County for the period January 1, 2008 to December 31, 2012.

Independent Auditor's Report (Continued)

Scope and Opinion - Forms MS-991 With Adjustments for the Liquid Fuels Tax Fund

Our examination of the accompanying Forms MS-991 With Adjustments for the Liquid Fuels Tax Fund 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 Philadelphia County's Forms MS-991 and Reports of Act 44 Tax Fund for the period January 1, 2008 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*.

As described in Finding No. 2, the adjustments included on the Forms MS-991 With Adjustments are made by the Department of the Auditor General.

In our opinion, the Forms MS-991 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of Philadelphia County for the period January 1, 2008 to December 31, 2012, in conformity with the criteria set forth in Note 1.

Other Reporting Required by Government Auditing Standards

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-991 and the Reports of Act 44 Tax Fund; 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-991 and the Reports of Act 44 Tax Fund. 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-991 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-991 or on compliance and other matters; accordingly, we express no such opinions.

Independent Auditor's Report

Our consideration of internal control was for the limited purpose of expressing an opinion on whether the Forms MS-991 are presented in accordance with the criteria described above and attempting to express an opinion on whether the Reports of Act 44 Tax Fund are presented in accordance with the criteria described above. Our consideration of internal control 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.

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-991 and the Reports of Act 44 Tax Fund will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies below to be material weaknesses.

- Untimely Deposit of Allocations.
- Internal Control Over The Preparation Of Form MS-991 Should Be Improved.

As part of obtaining reasonable assurance about whether the Forms MS-991 and attempting to obtain reasonable assurance about whether the Reports of Act 44 Tax Fund are free from material misstatement, we performed tests of Philadelphia 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-991. 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*:

- Act 44 Tax Fund Allocations Were Inappropriately Maintained In the Liquid Fuels Tax Fund, Were Not Accounted For Separately, And The City Failed To Submit Reports Of Act 44 Tax Fund.

Independent Auditor's Report (Continued)

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

We appreciate the courtesy extended by the County of Philadelphia, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.



Eugene A. DePasquale
Auditor General

October 6, 2014

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PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2008 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.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
2008 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 2)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2008	\$ 1,510,197.52	\$ (61,600.00)	\$ 1,448,597.52
<u>Receipts:</u>			
State allocations	4,808,639.34	(24,925.52)	4,783,713.82
Interest (Note 3)	19,826.09	-	19,826.09
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	24,925.52	24,925.52
Accounts receivable	-	-	-
	<u>4,828,465.43</u>	<u>-</u>	<u>4,828,465.43</u>
Total receipts			
Total funds available	<u>6,338,662.95</u>	<u>(61,600.00)</u>	<u>6,277,062.95</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	4,767,717.57	(61,600.00)	4,706,117.57
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Accounts payable	-	80,614.00	80,614.00
Miscellaneous	-	-	-
	<u>4,767,717.57</u>	<u>19,014.00</u>	<u>4,786,731.57</u>
Total expenditures			
Balance, December 31, 2008	1,570,945.38	(80,614.00)	1,490,331.38
Unpaid encumbrances	<u>80,614.00</u>	<u>(80,614.00)</u>	<u>-</u>
Unencumbered balance, December 31, 2008	<u>\$ 1,490,331.38</u>	<u>\$ -</u>	<u>\$ 1,490,331.38</u>

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 2)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2009	\$ 1,570,945.38	\$ (80,614.00)	\$ 1,490,331.38
<u>Receipts:</u>			
State allocations	4,648,538.85	(280,178.35)	4,368,360.50
Interest (Note 3)	291.67	-	291.67
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	280,178.35	280,178.35
Accounts receivable	-	-	-
	<u>4,648,830.52</u>	<u>-</u>	<u>4,648,830.52</u>
Total receipts			
Total funds available	<u>6,219,775.90</u>	<u>(80,614.00)</u>	<u>6,139,161.90</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	3,930,147.20	(80,614.00)	3,849,533.20
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Accounts payable	-	19,668.00	19,668.00
Miscellaneous	-	-	-
	<u>3,930,147.20</u>	<u>(60,946.00)</u>	<u>3,869,201.20</u>
Total expenditures			
Balance, December 31, 2009	2,289,628.70	(19,668.00)	2,269,960.70
Unpaid encumbrances	<u>19,668.00</u>	<u>(19,668.00)</u>	<u>-</u>
Unencumbered balance, December 31, 2009	<u>\$ 2,269,960.70</u>	<u>\$ -</u>	<u>\$ 2,269,960.70</u>

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
2010 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 2)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2010	\$ 2,289,628.70	\$ (19,668.00)	\$ 2,269,960.70
<u>Receipts:</u>			
State allocations	4,815,003.36	(781,688.67)	4,033,314.69
Interest (Note 3)	366.28	-	366.28
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	50,527.92	50,527.92
Accounts receivable	-	-	-
Total receipts	<u>4,815,369.64</u>	<u>(731,160.75)</u>	<u>4,084,208.89</u>
Total funds available	<u>7,104,998.34</u>	<u>(750,828.75)</u>	<u>6,354,169.59</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	4,304,102.39	(820,633.63)	3,483,468.76
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Accounts payable	-	-	-
Miscellaneous (Note 5)	-	89,839.25	89,839.25
Total expenditures	<u>4,304,102.39</u>	<u>(730,794.38)</u>	<u>3,573,308.01</u>
Balance, December 31, 2010	2,800,895.95	(20,034.37)	2,780,861.58
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2010	<u>\$ 2,800,895.95</u>	<u>\$ (20,034.37)</u>	<u>\$ 2,780,861.58</u>

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
2011 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Finding No. 2)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2011	\$ 2,800,895.95	\$ (20,034.37)	\$ 2,780,861.58
<u>Receipts:</u>			
State allocations	4,887,243.37	(24,644.63)	4,862,598.74
Interest (Note 3)	191.15	-	191.15
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	22,199.03	22,199.03
Accounts receivable	-	-	-
Total receipts	<u>4,887,434.52</u>	<u>(2,445.60)</u>	<u>4,884,988.92</u>
Total funds available	<u>7,688,330.47</u>	<u>(22,479.97)</u>	<u>7,665,850.50</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	4,830,140.54	16.14	4,830,156.68
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Accounts payable	-	-	-
Miscellaneous (Bank service charges)	-	21,632.45	21,632.45
Total expenditures	<u>4,830,140.54</u>	<u>21,648.59</u>	<u>4,851,789.13</u>
Balance, December 31, 2011	2,858,189.93	(44,128.56)	2,814,061.37
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2011	<u>\$ 2,858,189.93</u>	<u>\$ (44,128.56)</u>	<u>\$ 2,814,061.37</u>

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

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

	<u>Reported</u>	<u>Adjustments (Finding No. 2)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2012	\$ 2,858,189.93	\$ (44,128.57)	\$ 2,814,061.36
<u>Receipts:</u>			
State allocations	5,158,021.09	(24,577.59)	5,133,443.50
Interest (Note 3)	459.44	-	459.44
Reimbursable agreements	-	-	-
Miscellaneous (Note 4)	-	65,186.07	65,186.07
Accounts receivable	-	-	-
Total receipts	<u>5,158,480.53</u>	<u>40,608.48</u>	<u>5,199,089.01</u>
Total funds available	<u>8,016,670.46</u>	<u>(3,520.09)</u>	<u>8,013,150.37</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	4,834,246.33	-	4,834,246.33
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Accounts payable	-	-	-
Miscellaneous (Bank service charges)	-	21,057.50	21,057.50
Total expenditures	<u>4,834,246.33</u>	<u>21,057.50</u>	<u>4,855,303.83</u>
Balance, December 31, 2012	3,182,424.13	(24,577.59)	3,157,846.54
Unpaid encumbrances	-	-	-
Unencumbered balance, December 31, 2012	<u>\$ 3,182,424.13</u>	<u>\$ (24,577.59)</u>	<u>\$ 3,157,846.54</u>

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
2008 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2008	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	-	-
Interest	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Accounts receivable	-	-	-
	<hr/>	<hr/>	<hr/>
Total receipts	-	-	-
	<hr/>	<hr/>	<hr/>
Total funds available	-	-	-
	<hr/>	<hr/>	<hr/>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Accounts payable	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total expenditures	-	-	-
	<hr/>	<hr/>	<hr/>
Balance, December 31, 2008	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
2009 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2009	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	-	-
Interest	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Accounts receivable	-	-	-
	<hr/>	<hr/>	<hr/>
Total receipts	-	-	-
	<hr/>	<hr/>	<hr/>
Total funds available	-	-	-
	<hr/>	<hr/>	<hr/>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Accounts payable	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total expenditures	-	-	-
	<hr/>	<hr/>	<hr/>
Balance, December 31, 2009	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
2010 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2010	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	-	-
Interest	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Accounts receivable	-	-	-
	<hr/>	<hr/>	<hr/>
Total receipts	-	-	-
	<hr/>	<hr/>	<hr/>
Total funds available	-	-	-
	<hr/>	<hr/>	<hr/>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Accounts payable	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total expenditures	-	-	-
	<hr/>	<hr/>	<hr/>
Balance, December 31, 2010	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
2011 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2011	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	-	-
Interest	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Accounts receivable	-	-	-
	<hr/>	<hr/>	<hr/>
Total receipts	-	-	-
	<hr/>	<hr/>	<hr/>
Total funds available	-	-	-
	<hr/>	<hr/>	<hr/>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Accounts payable	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total expenditures	-	-	-
	<hr/>	<hr/>	<hr/>
Balance, December 31, 2011	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

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

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

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2012	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	-	-
Interest	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Accounts receivable	-	-	-
	<hr/>	<hr/>	<hr/>
Total receipts	-	-	-
	<hr/>	<hr/>	<hr/>
Total funds available	-	-	-
	<hr/>	<hr/>	<hr/>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Accounts payable	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total expenditures	-	-	-
	<hr/>	<hr/>	<hr/>
Balance, December 31, 2012	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2008 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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2012

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.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
NOTES TO FORMS MS-991 AND
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2012

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, 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.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
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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 or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in a financial institution. 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 consists of the following:

Cash	<u>\$3,157,846.54</u>
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3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in an interest-bearing account which earned \$19,826.09 during 2008, \$291.67 during 2009, \$366.28 during 2010, \$191.15 during 2011, and \$459.44 during 2012, thus providing additional funds for road maintenance and repairs.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND
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4. Miscellaneous Receipts

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

Source	Description	2008	2009	2010	2011	2012
Department of Transportation General Fund	Act 44 Allocation (Finding No. 3)	\$24,925.52	\$ 24,855.12	\$49,488.67	\$ -	\$24,644.63
	Reimbursement for road materials	-	-	-	19,684.28	-
Department of Transportation General Fund	Deposit in error (Note 6)	-	88,800.00	-	-	-
	Grant	-	166,523.23	-	-	-
Financial institution	Refund for bank service charges	-	-	1,039.25	2,514.75	40,541.44
Totals		<u>\$24,925.52</u>	<u>\$280,178.35</u>	<u>\$50,527.92</u>	<u>\$22,199.03</u>	<u>\$65,186.07</u>

5. Miscellaneous Expenditures

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

Payee	Description	2010
General Fund	Correction of deposit in error (Note 6)	\$88,800.00
Financial institution	Bank service charges	1,039.25
Total		<u>\$89,839.25</u>

6. Deposit In Error

On June 2, 2009, the county deposited \$88,800.00 into its Liquid Fuels Tax Fund in error. On March 5, 2010, the county transferred \$88,800.00 from its Liquid Fuels Tax Fund to its General Fund to correct the deposit in error.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 1 – Liquid Fuels Tax Fund Allocations Deposited Into The General Fund

Counties receive Liquid Fuels Tax Fund allocations in June and December of each year. Our examination disclosed that the county deposited its Liquid Fuels Tax Fund allocations into its General Fund from 2008 to 2012, which is in noncompliance with the Liquid Fuels and Fuels Tax Act. The allocations were then transferred to the Liquid Fuels Tax Fund as follows:

Date Received	Amount Received	Date Deposited	Amount Deposited
06/02/2008	\$ 2,318,304.27	06/24/2008	\$ 2,318,304.27
12/02/2008	2,465,409.55	12/02/2008	2,465,409.55
06/02/2009	2,184,180.25	06/02/2009	2,184,180.25
12/02/2009	2,184,180.25	12/24/2009	2,184,180.25
06/02/2010	2,437,280.97	06/28/2010	1,616,280.97
12/02/2010	2,417,044.72	01/19/2011	2,417,033.72
06/02/2011	2,403,641.82	07/21/2011	2,403,641.82
12/02/2011	2,458,956.92	01/25/2012	2,458,956.92
06/02/2012	2,701,961.57	08/10/2012	2,701,961.57
12/02/2012	2,431,481.93	02/05/2013	2,431,481.93
Totals	<u>\$24,002,442.25</u>		<u>\$23,181,431.25</u>

The reason for the difference between receipts of \$24,002,442.25 and deposits of \$23,181,431.25 was because the county expended \$821,000.00 from the General Fund in 2010 for eligible Liquid Fuels Tax Fund expenditures.

The practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account is contrary to the Liquid Fuels and Fuels Tax Act, 75 Pa. C.S.A. § 9010(b)(2), which states, in part:

All money received by the counties...shall be deposited and maintained in a special fund designated as the County Liquid Fuels Tax Fund. No other money shall be deposited and commingled into the County Liquid Fuels Tax Fund, except in a county which does not have sufficient money in such special fund to provide for payments designated in the current annual budget.

This condition occurred because the county did not have sufficient internal controls to ensure that liquid fuels money was deposited into the Liquid Fuels Tax Fund.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 1 – Liquid Fuels Tax Fund Allocations Deposited Into The General Fund
(Continued)

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

Recommendation

We recommend that, in the future, the county deposit all Liquid Fuels Tax Fund allocations promptly into the Liquid Fuels Tax Fund.

Management's Response

The county officials stated:

Internal controls have been identified and implemented.

Auditor's Conclusion

The county should ensure that Liquid Fuels Tax Fund allocations are deposited directly into the Liquid Fuels Tax Fund. During our next examination we will determine if the municipality complied with our recommendation.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2012

Finding No. 2 - Internal Control Over The Preparation Of Form MS-991 Should Be Improved

Our examination disclosed that there were numerous errors made in the preparation of the county's 2008, 2009, 2010, 2011, and 2012 Forms MS-991. These adjustments are as follows:

2008 Form MS-991

- An adjustment of \$(61,600.00) was made to "Balance, January 1, 2008" because of prior report adjustments that were not carried forward in the fund balance.
- Adjustments were made to "State allocations" and "Miscellaneous" because receipts of \$24,925.52 were misclassified.
- An adjustment of \$(61,600.00) was made to "Maintenance and repair" because these expenditures were reported as accounts payable in 2007 and were incorrectly reported as expenditures in 2008.
- Adjustments were made to "Accounts payable" and "Unpaid encumbrances" because expenditures of \$80,614.00 were misclassified.

2009 Form MS-991

- An adjustment of \$(80,614.00) was made to "Balance, January 1, 2009" to reflect the adjustment made to the fund balance in 2008.
- Adjustments were made to "State allocations" and "Miscellaneous" because receipts of \$280,178.35 were misclassified.
- An adjustment of \$(80,614.00) was made to "Maintenance and repair" because these expenditures were reported as accounts payable in 2008 and were incorrectly reported as expenditures in 2009.
- Adjustments were made to "Accounts payable" and "Unpaid encumbrances" because expenditures of \$19,668.00 were misclassified.

2010 Form MS-991

- An adjustment of \$(19,668.00) was made to "Balance, January 1, 2010" to reflect the adjustment made to the fund balance in 2009.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
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FINDINGS AND RECOMMENDATIONS
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Finding No. 2 - Internal Control Over The Preparation Of Form MS-991 Should Be Improved (Continued)

2010 Form MS-991 (Continued)

- An adjustment of \$(781,688.67) was made to “State allocations” because miscellaneous receipts of \$50,527.92 were misclassified and this receipt was overstated by \$731,160.75.
- An adjustment of \$50,527.92 was made to “Miscellaneous” because these receipts were misclassified as state allocations.
- An adjustment of \$(820,633.63) was made to “Maintenance and repair” because these expenditures were overstated.
- An adjustment of \$89,839.25 was made to “Miscellaneous” because these expenditures were not reported.

2011 Form MS-991

- An adjustment of \$(20,034.37) was made to “Balance, January 1, 2011” to reflect the adjustment made to the fund balance in 2010.
- An adjustment of \$(24,644.63) was made to “State allocation” because these receipts were overstated.
- An adjustment of \$22,199.03 was made to “Miscellaneous” because refunds for bank service charges were not reported.
- An adjustment of \$16.14 was made to “Maintenance and repair” because these expenditures were understated.
- An adjustment of \$21,632.45 was made to “Miscellaneous” because bank service charges were not reported.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
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FOR THE PERIOD
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Finding No. 2 - Internal Control Over The Preparation Of Form MS-991 Should Be Improved (Continued)

2012 Form MS-991

- An adjustment of \$(44,128.57) was made to “Balance, January 1, 2012” because an incorrect fund balance was carried forward.
- An adjustment of \$(24,577.59) was made to “State allocations” because these receipts were overstated.
- Adjustments of \$65,186.07 were made to “Miscellaneous” because these receipts were understated.
- An adjustment of \$21,057.50 was made to “Miscellaneous” because bank service charges were not reported.

Good internal controls would ensure that the county completes its Form MS-991 accurately and completely. The failure to properly complete Form MS-991 increases the risk that errors or misappropriations may occur and remain undetected.

Recommendation

We recommend that the county ensure that its Form MS-991 is complete and accurate.

Management’s Response

The county officials stated:

The Form MS-991 will be submitted electronically so it can be reviewed by the State and approved accordingly.

Auditor’s Conclusion

Internal controls should be improved to ensure that the form is complete and accurate. Electronic submission alone is not sufficient to comply with this recommendation. During our next examination we will determine if the county complied with our recommendation.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2012

Finding No. 3 - Act 44 Tax Fund Allocations Were Inappropriately Maintained In The Liquid Fuels Tax Fund, Were Not Accounted For Separately, And The City Failed To Submit Reports Of Act 44 Tax Fund

Our examination disclosed that the county’s Act 44 Tax Fund allocations that were received from 2008-2012 were electronically deposited by the Department of Transportation into the General Fund. These funds were later transferred into the Liquid Fuels Tax Fund, which is in noncompliance with the Department of Transportation’s *Publication 9*. These deposits are as follows:

Date Deposited Into General Fund	Date Transferred To Liquid Fuels Tax Fund	Amount
04/01/2008	04/02/2008	\$ 24,925.52
12/01/2008	02/11/2009	24,855.12
12/01/2009	04/22/2010	24,814.33
12/01/2010	12/31/2010	24,674.34
12/01/2011	04/11/2012	24,644.63
12/01/2012	03/21/2013	24,577.59
	Total	<u>\$148,491.53</u>

The practice of depositing Act 44 money into the General Fund or Liquid Fuels Tax Fund is contrary to the Department of Transportation’s *Publication 9*, Chapter Four, Section 4.5, which states:

Each county must deposit the Act 44 funds it receives into a special fund called the County Act 44 Fund. . .

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2012

Finding No. 3 - Act 44 Tax Fund Allocations Were Inappropriately Maintained In The Liquid Fuels Tax Fund, Were Not Accounted For Separately, And The City Failed To Submit Reports Of Act 44 Tax Fund (Continued)

Additionally, the county did not maintain records supporting receipts, disbursements, and balances of an Act 44 Tax Fund as required by the Department of Transportation's *Publication 9*, Chapter Four, Section 4.6.1, which states:

Monies in the County Act 44 Tax Fund should be invested to earn interest until expended and may be combined with other county funds for investment purposes. However, the principal and its proportionate share of interest must be returned to the county Act 44 Fund and expended in accordance with the Act [Act 44 of 2007].

Furthermore, the county did not file any Reports of Act 44 Tax Fund for the calendar years 2008 to 2012, which is in noncompliance with the Department of Transportation's *Publication 9*, Chapter Four, Section 4.8, which states:

Each county must submit a set of annual reports showing the receipts and expenditures of all Act 44 funds received from the Commonwealth on forms supplied by the Bureau of Municipal Services.

The risk that Act 44 Tax Fund money may be used for unauthorized purposes increases when Act 44 money is commingled with other funds.

When Act 44 Tax Fund money is commingled with other funds, the potential for Act 44 Tax Fund money to be used for unauthorized purposes increases significantly. Because the county maintained its Act 44 Tax Fund allocations in the Liquid Fuels Tax Fund, failed to account for Act 44 Tax Funds separately, and failed to file its Reports of Act 44 Tax Fund for the calendar years 2008-2012, we were unable to determine if any Act 44 Tax Fund money was expended during the examination period, nor could we determine the balance of Act 44 Tax Fund money in the Liquid Fuels Tax Fund.

Recommendation

We recommend that the county establish a separate Act 44 Tax Fund account and deposit all future Act 44 allocations into this account.

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
FINDINGS AND RECOMMENDATIONS
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**Finding No. 3 - Act 44 Tax Fund Allocations Were Inappropriately Maintained In The
Liquid Fuels Tax Fund, Were Not Accounted For Separately, And
The City Failed To Submit Reports Of Act 44 Tax Fund (Continued)**

Management's Response

The county officials stated:

Act 44 deposits will be made under a unique and separate index code which shall be considered a separate account for recording purposes. Additionally, a separate MS-991 will be prepared for Act 44.

Auditor's Conclusion

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2012

An exit conference was held April 15, 2014. Those participating were:

PHILADELPHIA COUNTY

Ms. Patricia McConnell, Deputy Streets Commissioner

Mr. Thomas O'Farrell, Fiscal Officer-Streets Department

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Matt Hotchkiss, Auditor

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

PHILADELPHIA COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2008 TO DECEMBER 31, 2012

This report was initially distributed to:

The Honorable Leslie Richards
Acting Secretary
Department of Transportation

Philadelphia County
Municipal Services Building-Room 700
1401 JFK Boulevard
Philadelphia, PA 19102

The Honorable David J. Perri

Streets Commissioner

Ms. Patricia McConnell

Deputy Streets Commissioner

Mr. Thomas O'Farrell

Fiscal Officer-Streets Department

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, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.