ATTESTATION ENGAGEMENT

York County

Pennsylvania
66-000
Liquid Fuels Tax Fund
And Act 44 Tax Fund

For the Period
January 1, 2012 to December 31, 2013

January 2015

Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General

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Department of the Auditor General
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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 Forms MS-991 With Adjustments for the Liquid Fuels Tax Fund and the Reports of Act 44 Tax Fund With Adjustments of York County for the period January 1, 2012 to December 31, 2013. 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 and the Reports 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 York County's Forms MS-991 and Reports of Act 44 Tax Fund for the period January 1, 2012 to December 31, 2013 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 Note 4, 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 and the Reports 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 York County for the period January 1, 2012 to December 31, 2013, in conformity with the criteria set forth in Note 1.

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 and the Reports of Act 44 Tax Fund 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-991 and the Reports of Act 44 Tax Fund 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-991 and the Reports of Act 44 Tax Fund 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.

Our consideration of internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund was for the limited purpose of expressing an opinion on whether the Forms MS-991 and the Reports of Act 44 Tax Fund 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-991 and the Reports of Act 44 Tax Fund are free from material misstatement, we performed tests of 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-991 and the Reports of Act 44 Tax Fund. 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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note another matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Failure To Obtain Project Approval.

This report is intended solely for the information and use of the Pennsylvania Department of Transportation and the management of York 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 York County, 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.

October 30, 2014

John M. Lori, CPA
Deputy Auditor General for Audits

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YORK COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

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.

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

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2012	$ 1,147,532.33	$ -	$ 1,147,532.33
Receipts:			
State allocations	718,374.88	-	718,374.88
Interest (Note 3)	7,298.28	-	7,298.28
Reimbursable agreements (Note 5)	515,950.85	-	515,950.85
Miscellaneous (Note 6)	56,255.76	311,765.85	368,021.61
Total receipts	1,297,879.77	311,765.85	1,609,645.62
Total funds available	2,445,412.10	311,765.85	2,757,177.95
Expenditures:			
Construction	110,872.26	-	110,872.26
Maintenance and repair	582,846.60	(1,225.00)	581,621.60
Administrative	10,910.40	1,225.00	12,135.40
Grants to political subdivisions	-	-	-
Miscellaneous (Note 7)	-	311,765.85	311,765.85
Total expenditures	704,629.26	311,765.85	1,016,395.11
Balance, December 31, 2012	1,740,782.84	-	1,740,782.84
Unpaid encumbrances (Note 8)	1,141,553.48	2,068.44	1,143,621.92
Unencumbered balance, December 31, 2012	$ 599,229.36	$ (2,068.44)	$ 597,160.92

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

YORK COUNTY
LIQUID FUELS TAX FUND
2013 FORM MS-991 WITH ADJUSTMENTS

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2013	$ 1,740,782.84	$ -	$ 1,740,782.84
Receipts:			
State allocations	659,311.05	-	659,311.05
Interest (Note 3)	2,864.76	-	2,864.76
Reimbursable agreements (Note 5)	135,498.46	-	135,498.46
Miscellaneous (Note 6)	13,019.50	93,849.42	106,868.92
Total receipts	810,693.77	93,849.42	904,543.19
Total funds available	2,551,476.61	93,849.42	2,645,326.03
Expenditures:			
Construction	568,827.58	31,485.37	600,312.95
Maintenance and repair	630,034.15	(31,485.37)	598,548.78
Administrative	9,846.00	489.30	10,335.30
Grants to political subdivisions	-	-	-
Miscellaneous (Note 7)	489.30	93,360.12	93,849.42
Total expenditures	1,209,197.03	93,849.42	1,303,046.45
Balance, December 31, 2013	1,342,279.58	-	1,342,279.58
Unpaid encumbrances (Note 8)	1,110,500.00	-	1,110,500.00
Unencumbered balance, December 31, 2013	$ 231,779.58	$ -	$ 231,779.58

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

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

	Reported	Adjustments	Adjusted Amount
Balance, January 1, 2012	$ 359,555.08	$ -	$ 359,555.08
Receipts:			
Act 44 Funds	158,230.02	-	158,230.02
Interest (Note 3)	155.73	-	155.73
Reimburseable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	158,385.75	-	158,385.75
Total funds available	517,940.83	-	517,940.83
Expenditures:			
Construction	-	-	-
Maintenance and repair	311,765.85	-	311,765.85
Miscellaneous	-	-	-
Total expenditures	311,765.85	-	311,765.85
Balance, December 31, 2012	$ 206,174.98	$ -	$ 206,174.98

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

YORK COUNTY
LIQUID FUELS TAX FUND
2013 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	Reported	Adjustments	Adjusted Amount
Balance, January 1, 2013	$ 206,174.98	$ -	$ 206,174.98
Receipts:			
Act 44 Funds	158,826.91	-	158,826.91
Interest (Note 3)	295.37	-	295.37
Reimburseable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	159,122.28	-	159,122.28
Total funds available	365,297.26	-	365,297.26
Expenditures:			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	-	-	-
Balance, December 31, 2013	$ 365,297.26	$ -	$ 365,297.26

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

YORK 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, 2012 TO DECEMBER 31, 2013

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 5, Reimbursable Agreements; and Note 6, 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.

   Refer to related Note: Note 7, Miscellaneous Expenditures.

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.

   Refer to related Note: Note 8, Encumbrances.

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 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, 2013. 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, 2013 consists of the following:

Cash	$1,342,279.58

The fund balance for the Act 44 Tax Fund as of December 31, 2013 consists of the following:

Cash	$365,297.26

3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in an interest-bearing account which earned $7,298.28 during 2012, and $2,864.76 during 2013, 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 $155.73 during 2012, and $295.37 during 2013, thus providing additional funds for bridge maintenance and repairs.

4. Adjustments

2012 Form MS-991

An adjustment of $311,765.85 was made to "Miscellaneous" because reimbursements from the Act 44 Tax Fund were not reported.

Adjustments were made to "Maintenance and repair" and "Administrative" because expenditures of $1,225.00 were misclassified.

An adjustment of $311,765.85 was made to "Miscellaneous" because expenditures made on behalf of the Act 44 Tax Fund were not reported.

An adjustment of $2,068.44 was made to "Unpaid encumbrances" because the balance of the following encumbrance was reported incorrectly:

Encumbrance No.	Actual Amount	Reported Amount	Adjustment
12-66000-15	$14,476.52	$12,408.08	$2,068.44

4. Adjustments (Continued)

2013 Form MS-991

An adjustment of $93,849.42 was made to "Miscellaneous" because reimbursements from the Marcellus Shale Fund were not reported (Finding).

Adjustments were made to "Construction" and "Maintenance and repair" because expenditures of $31,485.37 were misclassified.

An adjustment of $489.30 was made to "Administrative" because these expenditures were misclassified as miscellaneous.

An adjustment of $93,360.12 was made to "Miscellaneous" because expenditures of $489.30 for administrative were misclassified and expenditures of $93,849.42 made on behalf of the Marcellus Shale Fund were not reported.

5. Reimbursable Agreements

During our examination, we noted that the county entered into reimbursable agreements with the Pennsylvania Department of Transportation for the inspection and reconstruction of county bridges. During our current examination period, the county received $515,950.85 during 2012 and $135,498.46 during 2013 as a result of these agreements and deposited this money into its Liquid Fuels Tax Fund. As of December 31, 2013, $531,294.51 is due the Liquid Fuels Tax Fund.

6. Miscellaneous Receipts

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

Source	Description	2012	2013
Act 44 Tax Fund	Reimbursement for expenditures	$311,765.85	$ -
Cumberland County	Reimbursement for bridge work	5,221.76	-
Vendor	Bid specs	195.00	140.00
Resident	Reimbursement for damages	390.25	-
Insurance company	Reimbursement for damages	47,550.00	2,750.00
County of York	Equipment rental	2,898.75	315.00
County of York	Sale of equipment	-	4,202.00
York County Conservation	Grant	-	5,612.50
Marcellus Shale Fund	Reimbursement (Finding)	-	93,849.42
Totals		$368,021.61	$106,868.92

7. Miscellaneous Expenditures

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

Payee	Description	2012	2013
Vendors	Act 44 expenditures	$311,765.85	$ -
Vendors	Marcellus Shale expenditures (Finding)	-	93,849.42
Totals		$311,765.85	$93,849.42

8. Encumbrances

As of December 31, 2013, $1,110,500.00 was encumbered for county projects.

Finding - Failure To Obtain Project Approval

Our examination disclosed that the county expended $93,849.42 during 2013 for engineering for the replacement to Bridge 80 without obtaining the approval of the Department of Transportation. Before bridge construction planning is started, the county must obtain the approval of the Department of Transportation. We further noted that the county 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 One, Section 6.6.1, states:

> County Liquid Fuels Tax Fund monies may not be allocated or expended for construction or reconstruction projects by the county or any of its political subdivisions, without the prior approval of the application, contract or plans for the proposed expenditure by the Department of Transportation.

Furthermore, *Publication* 9, Chapter One, Section 6.6.2, states:

> Completed work by the county or one of its political subdivisions must be approved by the Municipal Services district office before payment can be made.

On December 6, 2013, the county transferred $93,849.42 from its Marcellus Shale Fund to its Liquid Fuels Tax Fund.

Recommendation

We recommend that before the county expends money on a project, it applies for and obtains prior approval of the project, and when the project is completed it obtains approval for the completed work.

Management's Response

The county officials offered no formal response at this time.

Auditor's Conclusion

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

YORK COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

An exit conference was held July 3, 2014. Those participating were:

YORK COUNTY

Ms. Deborah K. Myers, Deputy Controller

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Tammy Fleisher, Auditor

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

YORK COUNTY
LIQUID FUELS TAX FUND
AND ACT 44 TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

This report was initially distributed to:

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

York County
Administrative Center
28 East Market Street, Room 232
York, PA 17401-1588

The Honorable Steve Chronister	President of the Board of Commissioners
The Honorable Barbara L. Bair	Treasurer
Ms. Deborah K. Myers	Deputy Controller
Mr. Charles R. Noll	Administrator/Chief Clerk

This report is a matter of public record and is available online at 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.